

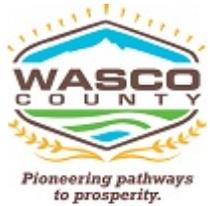
[Email sent 6/25/20. Memo attached.]

Hello Connie,

We would like to place the attached memo to DLCD on your record for this evening's hearing.

Thank you,

Angie

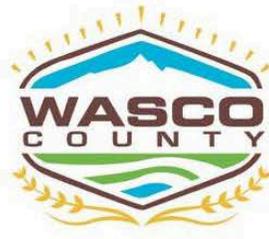


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*This correspondence does not constitute a Land Use Decision per ORS 197.015. It is informational only and a matter of public record.*



## MEMORANDUM

**SUBJECT: Oregon Statewide Land Use Planning Goals and Conflicts with Proposed Amendments to the National Scenic Area Management Plan**

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TO: DLCD

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FROM: KELLY HOWSLEY-GLOVER, LONG RANGE PLANNER

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DATE: 6/24/2020

Following review of the proposed amendments to the National Scenic Area Management Plan, staff has identified the following, potential conflicts with Oregon Statewide Land Use Planning Goals.

### **Goal 1 (Citizen Involvement)**

- The Columbia River Gorge Commission (CRGC) has completed no direct public outreach to inform citizens of the potential impacts to their properties. Citizens in Oregon are used to, and expect, mailed notice consistent with ORS 215.503.
- Written comments have not been addressed or acknowledged in public hearings by the Commission or staff.
- There was significant gatekeeping by Columbia River Gorge Commissioners, who on several occasions went on record at expressing distrust, doubt over credentials, or rejecting out of hand the input of partners, stakeholders and the public.
- The proposed new language for public involvement (beginning on page 419 of the draft Management Plan) is inconsistent with Goal 1 which states “Federal, state and regional agencies and special-purpose districts shall coordinate their planning efforts with the affected governing bodies and make use of existing local citizen involvement programs established by cities and counties.” This is nowhere addressed in the revised language and Wasco County was not consulted about its citizen involvement program.

### **Goal 2 (Land Use Planning)**

- New proposed language (Introduction, page 13) suggests the Management Plan is based on, in part, the Gorge Commission’s “vision and experience with managing private land.” According to ORS 196.160, Commissioner’s serve at the pleasure of the Governor, and according to ORS 195.150 are responsible to the compact and the federal Columbia River Gorge National Scenic Area Act. Essentially, the new language contradicts the express intent of bi-state compact for Commissioners to be representative of their communities and be beholden to the Governor. The new language seems to suggest individual Commissioners are able to pursue agendas of their own making/experience.

- On page 379, new language states “The Gorge Commission has a high profile, managing the largest and most complex jurisdiction of its kind, on the doorstep of one of the region’s largest metropolitan areas.” According to the Act, the CRGC manages the scenic area non-Federal lands which is a geographic area with a designation via Act, not a jurisdiction. It, perhaps, is more accurate to call it a regional government body.
- New proposed language (Introduction, page 13) diminishes County government’s role as the implementing body of the Management plan by reducing our contribution to “local knowledge.”
- In the GMA Objectives (page 35), the word “Encourage” has been replaced by “Support” for efforts for a NSA public land conservancy or nonprofit land trust. This would have County government be required to support nonprofit organizations above private properties, creating an inherent conflict with Goal 1 and Goal 2’s requirements that our land use plans assure for “an adequate factual base.” Requiring County governments to automatically support a land trusts fundamentally undermines our impartiality in making land use decisions.
- On page 83, the phrase “required by...law” is used without clarifying which laws are being referenced. This can be problematic for implementation because it doesn’t provide clear nexus to regulation.
- In the section on monitoring implementation of the Management Plan, on page 412, proposed language replaces the word *whether* with *how*, significantly changing the intent of this sentence. Will Congress, State, and the public no longer be entitled to know if the Management Plan is effective in achieving its goals and intent?
- On page 414, proposed revisions remove the consultation with local government and other partners as a requirement prior to adopting enforcement related rules. This essentially means implementing bodies would not be consulted prior to passing new rules that have significant implications for their programs and capacities.

### Goal 3 (Agricultural Lands)

- (Page 199) Proposed language limits, by omission, the allowance of other critical commercial in conjunction with farming uses/activities including: agri-tourism, cideries, breweries, farm stands, cattle auctions, processing facilities (drying, freezing, canning, etc.) and a variety of other commercial activities associated with farm use. This conflicts with Goal 3. Fruit and produce stands are listed as permitted elsewhere, but the definition is limited and would exclude certain items produced on a farm.

### Goal 4 (Forest Lands)

- It appears the proposed language for restricting forest practices did not make it into the redlined version of the Management Plan. In the Climate Change Chapter (381) there is language that suggests they have deferred drafting language until there is public comment. Suggested edits from the Commission have included limited some forest practices, which would be in direct conflict with the Oregon Forest Practices Act.

### Goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces)

- Revisions to language on page 78 are: “Cultural resources can be destroyed by human activities, directly by new development that disturbs the ground, and indirectly through

climate change and neglect.” The proposed amendments do not elaborate on how climate change and neglect destroy cultural resources, which are important to provide benchmarks for implementation.

- Another amendment on page 78 is: “State laws in Oregon and Washington offer limited protection to cultural resources. The laws do not become effective until the presence of a cultural resource site is known. Yet, they do not require cultural resource surveys to be conducted before development begins.” This is an oversimplification of Oregon’s cultural, archaeological, and historical protections.
- Proposed revisions on page 76 add the words “and associations” to the following sentence: “Cultural resources are the evidence and associations of past human activity that are important in the history, archaeology, architecture, or culture of a community or region” It is not clear the meaning of this word in context or the purpose of the revision.
- Proposed revisions on page 104 point to development as sole source of overuse, rather than some recreation. This conflicts with testimony that has been provided by partners, including the US Forest Service.
- In the wetland section, on page 107, the proposed language reads: “Work with land trusts to secure fee interest, conservation easements, and other interests in properties where regulation, incentives, and other strategies cannot accomplish necessary and enhancement.” This potentially violates § 544d Sec. 6. Scenic Area Management Plan (d)(1) & (2) of the National Scenic Area Act which, consistent with Goals 3 & 4, require the protection and enhancement of farm and forest lands. The Act specifically states farm and forest lands shall not be required to convert to other uses.

#### **Goal 9 (Economic Development)**

- The new commercial GMA objectives listed on page 273 restrict uses allowed to pre-existing development, essential services, and commercial uses that “support protection of” SNCRs, leaving out other critical aspects of our economy including commercial uses in conjunction with agriculture.
- New language on page 389 suggests that CRGC will only support Oregon economic development efforts “as long as these efforts are consistent with the National Scenic Area Act and the Management Plan.” Since the Act is supposed to be consistent with Goal 9, theoretically this would always be the case. However, we are concerned the new language could potentially set up a conflict between the Management Plan and Goal 9.
- A new policy on page 390 recommends “allowing commercial uses on GMA agriculture lands that are incidental and subordinate to the agricultural use” but the actual implementation portions of the Management Plan are inconsistent (see first bullet under Goal 9).

#### **Goal 14 (Urbanization)**

- Language in the Introduction (page 13) states: “The act allows revisions to urban area boundaries consistent with careful urban planning and resource protection.” This is not adequately explained, and “careful urban planning and resource protection” is a value statement that is not clear and objective. Nowhere does it list the benchmarks or who is the deciding authority of “careful” planning. The implication seems to be that it is the

CRGC, but given that local jurisdictions are the implementing body this sentiment is inaccurate.

This is not an exhaustive list of all the potential conflicts with proposed revisions to the National Scenic Area Management Plan and the Statewide Land Use Planning Goals. Instead, these represent critical errors in drafting amendments where counties were not consulted or comments submitted to the record were not taken under advisement.

Wasco County is concerned that these conflicts create a problem for implementation and undermine the fundamental intent and nature of the bi-state compact as codified in the Oregon Revised Statutes. We encourage the Department of Land Conservation and Development to review the proposed Management Plan draft and support Wasco County in safeguarding the Statewide Land Use Planning Program.