

Protecting the Columbia River Gorge (B)

Not long after joining the Snake River and making its sweeping turn west toward the Pacific, the Columbia River cuts through a remarkable pass in the Cascade Mountain range. This broad and steep-walled canyon divides Oregon and Washington and is home to a vast array of plant and animal species that make up its complex and fragile ecosystems. It is also home to 44,000 people and an equally complex array of social and political systems. There are more than 50 governmental bodies that have jurisdiction over activity in the Gorge, including county commissions, city governments, town councils, and port authorities.

In the past, Gorge dwellers and their institutions have rarely had to consider ecological concerns when deciding matters of livelihood and growth. Until recently, in fact, the scenic and natural sensitivity of the area was not of issue even to the state and federal entities whose policies have long affected the Gorge. In the 1930's, a call for regional public works projects led to the construction of the Bonneville Dam. Commerce and transportation needs were met by the construction of port facilities and locks and railroads and state highways and, most recently, a six-lane Interstate. Timber was harvested. Parks and recreation areas were built to encourage tourism. This is not to say that caution has never been exercised in the Gorge, but as the population has grown, and ever-increasing demands have been made upon the physical environment, so too, have demands been made upon decision-makers both within the Gorge and without. It was long held that the topography of the Gorge was a natural impediment to runaway development, but in the past two decades it has become clear that this is not the case.

A strong push to contain growth and preserve the scenic and ecological values of the Gorge has resulted in federal legislation that mandates a coordinated multi-governmental approach to protecting the Gorge and encouraging compatible economic development. Under the Columbia River Gorge National Scenic Area Act (P.L.99-663) the Gorge is to be managed through a partnership of federal, state, and local governments involving the U.S. Forest Service, a new bi-state citizens commission, and the six Gorge counties.

Dick Benner, staff attorney for 1000 Friends of Oregon, a public interest "watch-dog" group established to monitor the implementation of Oregon's land use laws, could barely contain his enthusiasm. He had just received a call from a member of the newly-created Columbia Gorge Commission informing him that he was their top-ranked candidate for the position of executive

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director. After ten years with 1000 Friends of Oregon, Benner had recently begun to seek a new professional challenge, and the position with the Commission seemed to fit the bill. The 13-member citizens' commission would be responsible for developing a management plan to govern land use and to oversee the management of non-federal lands in the Columbia River Gorge National Scenic Area. Were he to accept this offer Benner would direct a staff of three planners to assist the Commission in fulfilling its mandate.

Benner had long followed the development of Gorge legislation. He was keenly aware of the conflicts that existed within the Gorge over land use issues and knew that the Commission faced a tough task. He was also favorably impressed with the innovative management scheme that had been set up for the Scenic Area, dividing responsibilities among the Forest Service, the Commission and the county governments. As Benner considered the Commission's offer, he knew it would be unwise to make his decision in the excitement of the moment. He had worked hard to establish himself as a credible voice in Oregon land-use circles, and while the position with the Commission might provide the challenge he had been looking for, he did not want to take on an impossible task. Before making his final decision Benner decided to take one last look at the Columbia River Gorge National Scenic Area Act and the events leading up to its passage. By doing so he hoped to better understand its chances for successful implementation.

Legislative History

In the early 1980's several wide-ranging attempts were made to create Gorge legislation that would be effective yet palatable enough to gain wide support. [See Protecting the Columbia River Gorge (A)]. Early activists felt that the Park Service would have to be the managing federal agency for any successful program. Their choice was based upon a sense that the Park Service's mandate, directed towards preservation and conservation, would be more suitable than the Forest Service's multiple use approach to land management. Early legislative proposals, however, reflected the growing opinion among some environmentalists that a Forest Service proposal would represent less of a departure from the status quo--since the Forest Service already managed lands in the Gorge--and would thus stand a better chance of gaining the support of northwest lawmakers. Bills were introduced to reflect varying opinions about how much control this federal agency would have and how much would be retained by the state and local governments. This was perhaps the issue that generated the most heat. Debate continued about the fundamentals of a scenic area, whether its geographic range would include tributaries of the Columbia, whether urban areas would be affected, and whether legislation would recognize variations in natural and demographic makeup within the Gorge, but what most often blocked consensus were conflicting views on how local, regional and national political institutions were to be balanced in a management framework.

In 1982 Senator Robert Packwood introduced a bill prescribing a strong federal role which was drafted by the Friends of the Columbia Gorge, a Portland-based interest group working to secure federal protection. Under this proposal, the Forest Service would write a management plan with only the

advice of a 13-member commission comprised of six members chosen by Gorge counties, two members chosen by the governors of each state, and three chosen by the Secretary of Agriculture (under whose authority the Forest Service falls). As if to demonstrate the potential range of Gorge legislation a second bill introduced on the very same day specified a stronger role for the regional commission and a substantially less significant role for the Forest Service. Under this proposal, the commission would have 11 members, with only one federal appointee, thus giving a majority to the six counties of the Gorge. This commission had much greater authority for the preparation of the management plan and for approving development in the interim period before the plan was adopted. Additionally, the commission would be given the authority to override any federal condemnation of lands.

Neither of these bills made any headway, and it was much to Dick Benner's relief that while Packwood's bill was reintroduced in the 98th Congress, the latter bill was not. Benner and his land-use confederates felt that bad legislation could be worse than none at all. As an example of the damage that could come from reliance on a commission with too local a focus, they would have cited the Tahoe Regional Planning Council (TRPC). As Bowen Blair of the Friends of the Columbia Gorge noted, "...the TRPC has achieved national recognition as a failure. In the ten years from its creation in 1969, TRPC approved an astonishing 96 percent of all development proposals put before it, resulting in the swift and steady deterioration of the Lake's scenic and natural beauty." Not surprisingly, six of the ten TRPC board members were from local governments. (Corrective measures have since improved the effectiveness of the Council.)

To the dismay of Benner and Blair, however, it was the 98th Congress which also saw, in August of 1983, the introduction of a proposal advocated by the governors of Washington and Oregon. Under the "governors' bill" the Gorge would be managed by a strictly regional commission, made up of 10 Gorge county residents, two at-large state representatives, and no federal representation at all. The Commission would have full responsibility for preparing and implementing the management plan.

Though the resistance of the Washington Senatorial delegation prevented action in the 98th Congress as it had in the 97th, Senator Henry Jackson's death, and Booth Gardner's election as Washington's governor at the end of 1984, changed the climate considerably. Days after his election Gardner came out clearly for a strong Gorge bill. A message from Governor-elect Gardner was read to those present at a hearing in Stevenson, Washington, which was chaired by Jackson's replacement, Dan Evans. Gardner advocated a strong federal role, tributary protection (which would expand the geographic bounds of previous proposals), and a moratorium on development until a management plan was adopted.

Evans initially supported what was still known as the "governors' bill", but over the next year, after holding a series of workshops in the Gorge, he began to develop a new proposal for Gorge management. Through his workshops with planners, naturalists, and resource experts he had obtained a detailed audit of the various Gorge lands and their relative scenic, historic, cultural, and natural values. Although a map distributed by Evans to Gorge

county planners caused something of a stir because it bore the label "areas of potential acquisition"--an unfortunate choice of words for someone trying to win friends in the Gorge--for the most part these workshops were held in an atmosphere of civility. Bowen Blair, of the Friends of the Columbia Gorge, credits Evans with shifting the argument from irreconcilable differences of philosophy, such as that of local versus federal control, toward a more specific analysis that invited cooperation.

The Gorge Issue Matures

To Dick Benner this early glimmer of cooperation seemed rooted in the way that people respond if they can be shown that, although a change is destined to occur, their concerns will be addressed. Cooperation would be key in easing the task of a Gorge commission and its executive director, and it would likely depend upon the makeup of the commission and its relationship to business and industry, as well as to local, state, and federal agencies. (See Appendix A for a list of government agencies having jurisdiction in the Gorge.) There had to be a practical way to dovetail commission authority with federal interests, especially as regarded Forest Service lands. If a commission were to be charged with creating a creditable management plan and then imposing it upon local planning bodies, then there would have to be clear legislative guidelines to direct it. Too much leeway could be as great an obstacle as too much specificity. The quality of Benner's first years as executive director, the so-called interim period during which the plan would be written and county zoning procedures brought in line with it, would strongly depend on the clarity of the commission's mandate. Equally important in any legislation would be strong enforcement provisions--always an incentive to cooperation. Here, too, it was necessary that clear guidelines be established. Once a management plan was in place it was essential that a commission not only be empowered to enforce it, but that it also be required to do so. As with the writing of the plan, too much discretionary range could be as disastrous as too little.

Much of the Columbia Gorge work that went on in the 99th Congress was directed toward working out these details. Although no legislation was proposed during 1985, a number of bills were introduced in the House and Senate beginning early in 1986. A Senate bill, **S 2055**, answered concerns about the dovetailing of federal and regional interests by splitting management responsibilities into a two-tier scheme. The Forest Service would manage federal land and areas deemed environmentally sensitive, while a 12-member commission (six from the counties and six from the states at large) would oversee areas of less sensitivity. Gorge counties would be responsible for developing and adopting zoning ordinances consistent with the commission plan, but development standards in this bill were not especially strict and the commission enforced these standards at their own discretion.

S 2055 was introduced by the four northwest senators as a consensus bill, thanks largely to the efforts of Evans. Bob Packwood made clear, though, that co-sponsorship did not necessarily reflect whole-hearted agreement: "I am pleased that we are moving ahead on the protection of the Columbia Gorge. I must admit, however, that this bill does not do all that I believe is

necessary." Senator Evans was also careful to point out that their proposal was to be viewed as a starting point:

The Columbia River Gorge is a unique national and regional asset that warrants protection. We believe this bill is a sound, effective, and equitable means to accomplish this objective. We do not mean to imply, however, that the bill in its present form is the final answer for protection of the Columbia River Gorge. Following introduction, we will continue our efforts to refine the bill. There will be more hearings, and further opportunities for public input. As a result of this process, there may well be more changes. Whatever the outcome, the process will continue.

Evans went on to explain the goals toward which the legislation was directed:

We intend for this legislation to strike a balance between the needs of those who live in the Columbia Gorge and the desires of those who seek to protect it. We strive to preserve and protect the special characteristics of the Gorge, at the same time recognizing the rights of its citizens.

Also in February of 1986 three House bills were introduced. The first, HR 4114, was similar to the 1983 Packwood bill and would return a stronger federal presence to the Gorge with only an advisory role for the commission. However, this bill shared the vague language on development standards and lack of tributary protection of the early Packwood bill. Two days later HR 4134 was introduced by Congressmen Les AuCoin (OR) and Don Bonker (WA). The AuCoin/Bonker bill adopted the Senate bill's two-tiered approach, though it stipulated mandatory enforcement and stricter development standards, also calling for a six-month moratorium on development. A third House bill followed almost exactly the guidelines of the Senate consensus bill. Of the four measures introduced in the Senate and the House, all but the Packwood bill took the two-tiered approach. Among these three, the AuCoin bill was strongest in regard to standards, enforcement and interim protection (the moratorium), though all three called for an identical regional commission that would draw up a management plan for the entire National Scenic Area. The plan would then be subject to veto by the Secretary of Agriculture (with provisions for an override). These measures also instructed the Secretary to establish the commission as a federal agency if the states did not cooperate or if a Constitutional conflict of authority arose. In the House, three more Washington state representatives joined their colleague Don Bonker in co-sponsorship of the AuCoin bill.

Hearings--All Factions Heard From

The Counties

The first formal opportunity to comment on proposed legislation came in June when the Senate Subcommittee on Public Lands of the Committee on Energy and Natural Resources held a hearing in Washington D.C. on the Senate

consensus bill (S 2055). Over 80 witnesses testified, most of whom had travelled from the northwest. County officials, who under the proposal would be responsible for developing zoning ordinances consistent with the management plan, spoke out against the legislation. William Benson, chair of the Skamania County Board of Commissioners testified:

I am adamantly opposed to any Federal legislation for control of the Gorge. Over 90 percent of the local people in Skamania County support this position, according to an advisory vote held as part of the county's election process. The people of Skamania County and the Gorge have the willingness and the capabilities to manage their own land use affairs.

Of six Gorge counties, four opposed the legislation. The rationales behind their opposition reflected the differing orientations of the two states toward land use planning. While the Washington counties' rebelled at the idea of being forced to institute zoning regulations, the Oregon counties in opposition argued that they had already taken the necessary steps to insure protection. Jerry Rouston, chair of the Hood River County Board of Commissioners said,

...let me clearly state for the record that Hood River County recognizes the scenic values of the Columbia River Gorge. We do not disagree with the stated public purpose of the proposed act and as a matter of record the Hood River County Comprehensive Land Use Plan approved under stringent land use laws of Oregon, recognizes the uniqueness of the Gorge and preserves its many scenic values. If I appear in my testimony to be at odds with Senate bill 2055, it is because Hood River County objects to the Federal intervention that it feels is unwarranted, and to the process of planning and implementation offered in the bill.

Not surprisingly, the two counties which supported Gorge legislation were Multnomah in Oregon, and Clark in Washington. Both counties, located to the west, had major metropolitan areas outside the Gorge (Portland and Vancouver, respectively). Their economies were not tied to Gorge resources. They also had larger county governments and well-staffed planning departments. As a comparison, Clark County had a budget of over \$500,000 and a planning staff of 14 while Skamania County had one planner and a \$70,000 budget.

The States

If county government support of this new bill was still mixed, Evans had the unequivocal support of both governors. Oregon Governor Vic Atiyeh, whose final term would expire in January (and who had vowed during the last election that his administration would see passage of a Gorge bill), spoke at the hearing and urged the committee to move forward quickly. "I believe the time to act is now, as quickly as possible. Momentum is on our side. The time for extra effort is now....If this legislation is delayed, I fear we will be back to the law-making equivalent of square one."

The Federal Government

Deputy Secretary of Agriculture, Peter Meyers, speaking for the Reagan Administration, testified against the Senate measure, specifically against federal authority over private landholdings and the cost associated with the creation of a Scenic Area. Speaking also for the Forest Service, certainly a key player in the management plan, the Deputy Secretary said:

We recognize the complexity of management issues within the Columbia River Gorge and the need for a coordinated approach to its special characteristics. We support a partnership of local, state and federal management to ensure protection of special values and resources. However, we do not support an overriding Federal presence in this area...[therefore] we do not support Senate bill 2055.

Grassroots Response

Interest group activity in the Gorge had not abated since the early days of the issue. Aside from a philosophical resistance to federal control, the issue of most concern to Gorge residents was the economic impact of legislation. A Washougal, Washington resident active with the anti-legislation Gorge Defense League expressed his concern:

The combination of lost timber revenues, land removed from tax rolls, and lost people as our land and jobs disappear will devastate the Columbia River Gorge.

Betty Thompson, from the Klickitat Port District added her views on the Gorge economy:

...The recession is still very much a part of small towns in rural America, and its effects here have stymied Gorge economies for five years. The threat of legislation has extended and magnified the effects of the recession, discouraging placement of new businesses. Our unemployment statistics are routinely at the top of the charts.... The local cost of high unemployment and jobless compensation, in human frustration, in drug abuse, divorces, child abuse, and alcoholism are simply overlooked. It is difficult for people under such circumstances to understand the concerns of those who rightfully fear for the environment.

The manager of the Port of Cascade Locks bristled at the notion of an increased Forest Service presence in the area, and went on to question whether the Department of Agriculture would be given the funding to carry out the proposed tasks:

The Secretary's budget for operating the...lands is a very big unknown. We see existing Forest Service operated facilities in our district not being maintained or operated on a consistent basis. Does more responsibility to the Forest Service mean less dollars for each project?

Assessing the over-all sentiment of Gorge residents was difficult to do. While opponents repeatedly claimed that 80 to 90 percent of the Gorge residents were adamantly opposed to federal legislation, Chuck Williams, leader of the Columbia Gorge Coalition, a Gorge-based environmental group, disagreed:

There are a lot of scare tactics being used. These questionnaires they are talking about, they are like: Do you want to get kicked out of your house by Federal legislation? And of course, people say no. If you say: Do you want the Gorge protected, 95 percent say yes. And I think the truth is that about 5 percent of the Gorge residents are adamantly for this and about 5 percent are adamant against it and about 90 percent have not made up their minds or do not care. I mean there is less than 10 percent of the people of the Gorge that I think have ever really taken part in the process.

Indian Tribes

The Yakima and Warm Springs Indian tribes both have landholdings in the Gorge and tribal fishing rights on the Columbia. The Tribes expressed concern about the impact of development in the Gorge, and appeared to welcome the prospect of federal protection. Ray Olney, a member of the Tribal Council, spoke for the Yakimas:

Since the coming of the white man and the consequent development within the Gorge we have seen much of what was left of our ancestry destroyed by dam building, industrial development, agricultural development, city growth, logging, mining and the consequent environmental degradation. We have seen the degradation of our burial grounds and antiquities, and we have seen our calls for help on these matters ignored by local authorities. Our views are never sought on how development might affect our people.... The Yakima Nation sees S.2055 as a vehicle to provide protection from further losses.

Their support was not without conditions, however. Both the Yakima and Warm Springs tribes requested that tribal land within the Gorge be exempt from commission authority, and further, that tribal input and concurrence be sought on decisions that would affect tribal fishing sites.

Environmentalists

Representatives from local and national environmental groups spoke to the weaknesses in the bill. They objected to the fact that significant portions of the Gorge would still be open to residential development and that tributaries had still not received adequate protection. Some conservationists still pushed for Park Service management, while others felt that adjustments in Commission makeup could correct the measure's shortcomings. Brock Evans, Vice-President of the National Audubon Society testified:

...any commission designed to protect the Gorge which has for starters one-half of its membership from the very counties which had been granting the development permits that are well on the way to gravely injuring the Gorge's integrity, cannot be reasonably expected to reverse the trends of the last 50 years.

Land-use Advocates

Dick Benner was among the Oregonians who made the trip to the Senate subcommittee hearings. Senate bill 2055 still did not live up to the hopes of land-use advocates especially in regard to its development standards. The language of the bill used "substantial impairment" of Gorge resources as the sole measure of determining unwarranted development. This would mean that an opponent of any proposed development in the Gorge would not only have to prove that it "impaired" resources but that it did so "substantially", a kind of double-hurdle. Benner asked:

What does "substantially" mean? Attorneys for developers will hire experts who will do lengthy studies that will absorb hundreds of hours of public hearings to prove their projects will not substantially impair resources in the Gorge. Opponents will employ likewise many hours to prove that a development project will impair the Gorge. The public and private costs will be enormous. The substantially impaired test is a lawyers playground. The best way to lighten the enforcement burden...is to replace vague and ambiguous standards with clear and objective standards.

Another of his criticisms touched more directly on the matter of enforcement. Language in the bill provided that the commission "may" enforce the plan in such a manner as is in its "best judgement". Benner commented:

I agree with Senator Packwood...if enforcement is discretionary, compliance with the act will be discretionary. That is the experience in the Oregon planning program. If you combine discretionary enforcement with an unenforceable standard--substantial impairment--then your efforts and ours will be stillborn.

The 1975 Oregon legislature made enforcement of its new planning law by the new Land Conservation and Development Commission (LCDC) discretionary. In the first 8 years of implementation, the LCDC went to bat for its program a grand total of six times.... In 1982, after voters approved the program and defeated initiatives to remove the program three times, LCDC picked up the enforcement pace just a little bit, but only slightly: It has been to court eleven times since 1982.

This performance should come as no surprise.... Most local governments have been unwilling partners in the Oregon planning program for an obvious reason: Much of their planning power has been taken away from them. LCDC has exercised its discretion by not enforcing the law. The political pressures have simply been too great.

Committee Markup

Through a long and trying course of subcommittee meetings, strengthening amendments were offered to the Senate consensus bill and finally the co-sponsors were in agreement. As amended, this bill was even stronger than AuCoin's House measure. Enforcement would be mandatory. Development standards would include a forty-acre minimum lot size for the environmentally sensitive areas, and the Secretary of Agriculture would have additional interim powers. Fine-tuning of the bill also resulted in concessions to local concerns, including further restrictions on Forest Service condemnation powers. Due to the arduous process of gaining agreement among the co-sponsors, however, it was not until the morning before the August recess that this newly-amended bill could be placed on the agenda of the Senate Energy and Natural Resources Committee. To expect action on such short notice was more than optimistic, but supporters were desperate because they knew that the bill was doomed in the 99th Congress if it failed to pass out of committee before recess. To the disappointment of the co-sponsors, however, time ran out in the committee meeting before mark-up could even begin. Because Senate rules prevented the committee from meeting in the afternoon, hope seemed dim. In an account of the parliamentary maneuvers that accompanied Gorge legislation Bowen Blair describes what happened next:

Senator Hatfield...marched to the Senate floor and obtained--in twenty minutes--unanimous consent from his colleagues for the committee to meet at 1:30 that afternoon to consider his bill. Usually a full day is required for such approval to be obtained through normal channels. Any Senator who disagreed with the bill could have stopped its passage at this point and incurred the wrath of Senator Hatfield, who also happened to be chairman of the Appropriations Committee. By 1:50 p.m. a quorum existed and the committee unanimously approved the bill during a hurried, abbreviated session. Members broke into applause upon approval, undoubtedly cheering the unusual--and successful--process rather than the content of the legislation.

By the August recess the Aucoin bill had still not even emerged from House subcommittee. Time was against proponents of Gorge legislation since the Republican-dominated Congress had voted for an adjournment at the beginning of October to allow members more time to campaign for re-election. Also working against them were the efforts of two representatives from Oregon, Bob Smith, whose district included much of the Gorge, and Denny Smith. Though unrelated, the two were known by their less conservative peers as the "Smith Brothers", due to their frequent alignment behind causes that were somewhat right-of-center. Since two separate committees were considering the bill, it had two chances for passage onto the floor. In an Agriculture subcommittee, Bob Smith was able to kill the bill by offering countless amendments and forcing quorum calls at a time when many legislators were otherwise engaged. Using similar tactics, Denny Smith, in an Interior and Insular Affairs subcommittee, forced adjournment of one meeting after another. Although pressing matters had kept Congress in session well into October, it seemed to the jubilant Smiths that Gorge bill opponents could simply play a waiting game: since a quorum is often difficult to achieve

even at the best of times, Republicans could send one lone emissary to demand a roll call and prevent any committee action on the bill. However, through a behind-the-scenes agreement among Democrats of the full Interior Committee, supporters of the bill were able to circumvent these maneuverings. In fifteen minutes, before Republican emissary Denny Smith could arrive to make his quorum call, the Interior Committee had voted to pull the bill from subcommittee and then stripped it of all language except its three-line description, passing it out of committee as a shell bill which could then be filled with any appropriate and viable Gorge legislation.

Passage

Within days the recently passed Senate bill was brought to the House to fill this shell. In spite of the complications they were creating for themselves, proponents insisted on minor amendments to strengthen the Senate bill's language. This caused a delay in House action, and then an eleventh hour defeat engineered by Bob Smith in the Rules Committee prevented the bill from being taken to the floor. Proponents began desperately to call in favors and prevailed upon Rules Committee Chair, Claude Pepper, who held a late-night meeting reversing the Committee decision and instituting a "closed rule" which would limit debate and amendments. The bill was passed by a healthy margin and then whisked back to the Senate where its amended form was passed on the final day of the session. In the Gorge, flags were lowered to half-mast.

On November 17, 1986, hours before the measure would have died in pocket-veto, a reluctant President Reagan signed the Columbia Gorge National Scenic Area Act into law. The President expressed his reservations about the bill:

...I am concerned that H.R.5705 could lead to undue Federal intervention in local land use decisions. I believe that the regulation of private land use is generally not a responsibility of Federal government. While I am strongly opposed to federal regulation of private land use planning, I am signing this bill because of the far-reaching support in both states for a solution to the longstanding problems related to management of the Columbia River Gorge.

The Columbia Gorge National Scenic Area Act (P.L. 99-663)

The CRGNSA Act creates a 255,000 acre scenic area in the Columbia Gorge between the Sandy River and the Deschutes River. (See Appendix B for a map of the Scenic Area.) The purpose of the act is to balance protection and economic development interests in the Gorge. To this end, the Act provides for the protection and enhancement of scenic, cultural and recreational resources as well as the promotion of compatible economic development within designated areas. The Scenic Area is to be managed through a partnership of federal, state, and local governments involving the Forest Service, a Bi-State Commission to be established by Oregon and Washington,

and the six Gorge counties (Clark, Klickitat and Skamania counties in Washington; Multnomah, Hood River and Wasco counties in Oregon).

I. Land Classifications and Management:

The Gorge area is divided into three land use classifications: Special Management Areas (SMA's), General Management Areas (GMA's) and Urban Areas (UA's). These classifications determine who manages the area and what kind of land uses are permitted.

Special Management Areas:

The five areas designated as SMA's are the most environmentally sensitive areas where land uses are most restricted. The Forest Service is responsible for managing these areas which comprise 45 percent of the Scenic Area. Fifty-five percent of the land in the SMA's is publicly owned (the federal government owns 38 percent, the states own 16 percent and the counties own 1 percent) and 45 percent is private. The Forest Service is given authority to purchase private land in the SMA's (lands used for homes, farms, grazing, and charitable purposes as of the date the Act was passed cannot be purchased by the Forest Service unless the use of the land changes substantially) and to make land exchanges.

Land uses that are allowed in the SMA's include: existing activities as of the passage of the Act, residential construction on parcels bigger than 40 acres, agricultural uses, and timber harvesting as long as it does not adversely affect the scenic, cultural, recreational or natural resources of the Scenic Area.

Land uses that are not allowed in the SMA's include: subdivisions, partitions, and plats, most commercial facilities, all industrial uses, new residential housing on parcels smaller than 40 acres, and most mineral development.

General Management Areas:

The GMA's comprise 45 percent of the Scenic Area and are almost exclusively privately-owned lands. Oregon and Washington are authorized under the Act to create a bi-state commission to manage these areas. The selection and membership of this 13-person citizens commission is as follows: the governors of Oregon and Washington each appoint three members (at least one of whom must live in the Gorge), the County Commissions of each of the six Gorge counties appoint one member (the county representatives must reside within the county but not necessarily in the Gorge). The Secretary of Agriculture selects one Forest Service employee to serve on the Commission as an ex-officio non-voting member. Commission members cannot be federal, state, or local elected or appointed officials, or employees of the federal government (with the exception of the Forest Service representative).

In addition to managing the GMA's, the Commission also is responsible for developing a Management Plan for the entire Scenic Area.

The Gorge counties are then responsible for developing and implementing land use ordinances which are consistent with the Management Plan for both the GA's and SMA's contained within their counties.

Land uses that are allowed in the GMA's include: existing uses at the time of the passage of the Act, residential and commercial development where it does not adversely affect the scenic, cultural or natural resource values (although commercial development is encouraged in the urban areas), agricultural uses, timber harvesting which is regulated through the state Forest Practices Acts, mineral exploration and development where it does not adversely affect the Scenic Area. New industrial development is prohibited in the GMA's.

Urban Areas:

There are 13 urban areas, covering 10 percent of the Scenic Area, which are exempted from the Act. Residential, commercial and industrial growth is encouraged in these areas.

II. The Planning Process

The Act establishes the following process for developing the Management Plan:

Interim Guidelines:

Within six months of the passage of the Act the Forest Service must develop Interim Guidelines which will determine what kind of development can take place while the Management Plan is being developed.

Special Studies:

Within one year the Commission is to carry out the following studies for the GMA's and the Forest Service the same studies for the SMA's:

- 1) A resource inventory to document existing land uses, scenic, natural, recreational, archeological, and cultural values, and
- 2) A recreational assessment to identify areas for public recreation facilities.

In addition, the Commission is to undertake an Economic Opportunity Study for the entire Scenic Area to identify opportunities to enhance the economies of the communities in the Scenic Area.

Land Use Designations:

Within two years the Commission and the Forest Service are to develop land use designations for the GMA's and the SMA's respectively. These designations, based on information from the special studies, will allocate land to different uses.

Adoption of General Management Plan:

Within three years the Commission is to adopt a Management Plan for the Scenic Area. The plan will incorporate the Commission's plan for the GMA's as well as the Forest Service's plan for the SMA's. The plan must be approved by a majority vote of the Commission including at least three members from each state. The Secretary of Agriculture must concur with the plan (or the Commission can override the Secretary's non-concurrence with a two-thirds vote including a majority of the members from each state.

III. Administration of the Scenic Area

The counties must adopt land use ordinances consistent with the Management Plan (subject to approval by the Commission and the Forest Service). If a county does not adopt a suitable plan, the Commission is charged with developing a plan for the county. The county is responsible for implementing the land use ordinance.

IV. Public Participation

The Commission and Forest Service are directed to hold hearings and solicit public comment in developing their management plans.

V. Other Provisions

Economic Development Plan:

\$5,000,000 is authorized for each state to make grants and loans for economic development. Money will be available to the states after the Scenic Area Management Plan is completed. The funds are to be distributed by the state to counties which have adopted land use ordinances that are consistent with the plan.

Wild and Scenic River Studies:

Studies for Wild and Scenic designation are to be completed for 2 sections of the Klickitat and the White Salmon River. One section of the Klickitat is designated as a recreation river and one segment of the White Salmon is classified as a scenic river.

(A more detailed outline of the Act is included as Appendix C.)

Implementation

By the spring of 1987, signs of the new Scenic Area were starting to appear in the Gorge. The Forest Service had opened a new Scenic Area office in Hood River, Oregon. Washington and Oregon had passed enabling legislation to establish the Columbia Gorge Commission. Both states had authorized \$447,000 to the Commission for operating expenses for a two year period beginning July 1, 1987. In addition, the states had authorized funds to cover the expenses of the Commissioners (Washington contributed \$62,000 and Oregon \$52,000).

Selection of the Commission members was beginning as well. *Knowing that the make-up of the Commission would in part determine its ability to succeed, the process was closely watched by those who had been involved in the Gorge issue. By August 1987, 11 of the 13 Commissioners had been chosen. (See Appendix D for a list of Commission members.)

The next task would be for the Commission to hire its staff--an executive director, three planners and an administrative assistant.

Dick Benner, Executive Director?

With the passage of Gorge legislation Dick Benner shared the ambivalence of many who had been involved with the fight. While it was a great relief to know that protective measures would be instituted, it was hard not to feel some disappointment in the shortcomings of the Scenic Area Act. Friends of the Gorge had publicly declared the Act a "win," but others were more critical. Brock Evans of the Audubon Society still believed that a national park would have been viable and that the Act did not "assure the safety of the Gorge." Destry Jarvis of the National Parks and Conservation Association said it left "a bad taste in everyone's mouth" because "it attempted to please everyone and wound up pleasing no one."

There were many aspects of the Act that did please Benner, however. He felt that the division of responsibilities between separate management areas was a good way to mesh federal and regional control. He was happy with the process established for adopting a management plan, and thankful that the Commission's enforcement powers were not discretionary. The "substantial impairment" language in the Senate bill that he had objected to at the hearing had been replaced with "adversely affect" which he believed to be a much clearer measure of impact.

Yet Benner also felt some uneasiness about the flexibility that this language still allowed. Development standards permitted logging to continue in the Gorge unless it "adversely affected" other resources, and allowed residential development, possibly the biggest threat to the integrity of the Gorge, to continue with few restrictions in the General Management areas. Additionally, though the Act seemed generally clear in its intentions, it seemed to Benner that unforeseen situations would inevitably arise and questions of interpretation would follow. Due to the unusual circumstances of the bill's last-minute passage, there was little legislative documentation to help in interpreting the Act. Because the Gorge bill had, as one opponent claimed, "slithered through the process here during the dark of night" (he referred to the midnight meeting of the House Rules Committee), neither the House or Senate Committees issued reports, and the floor debates were dominated by arguments offering little in the way of clarifying information. The legislation, as written, would have to stand on its own.

Benner wondered about the climate within which he would be working, about Forest Service cooperation, for example. In his experience the Service often had shown itself too easily influenced by timber interests. He wondered if bureaucratic inertia might reduce its ability to adapt its multiple-use

management practices to comply with its new responsibilities in the Scenic Area. Mainly, however, Benner wondered what would it be like to work with this citizens commission. Was this Commission destined to fall prey to local interests as had the Tahoe Regional Planning Council? As executive director of the Commission his job would be to serve the will of these appointees. Would he spend the next few years frustrated by their biases? Many of the people chosen for the commission had backgrounds in land use planning, but he knew that it was unlikely they would always share his views. While not categorically opposed to development, much of his work with 1000 Friends of Oregon was spent bringing suit against developers. Under Oregon's planning laws these suits were heard by the Land Conservation and Development Commission (LCDC) which was a citizens' group much like this new commission. Would the mandatory enforcement provisions be enough to lift the Columbia Gorge Commission above the weak-willed example set by the LCDC?

Benner paused for a moment, then picked up his phone and dialed the Commissioner's number.

Table 1: Summary of Related Federal, Interstate, State, Regional, and Local Programs

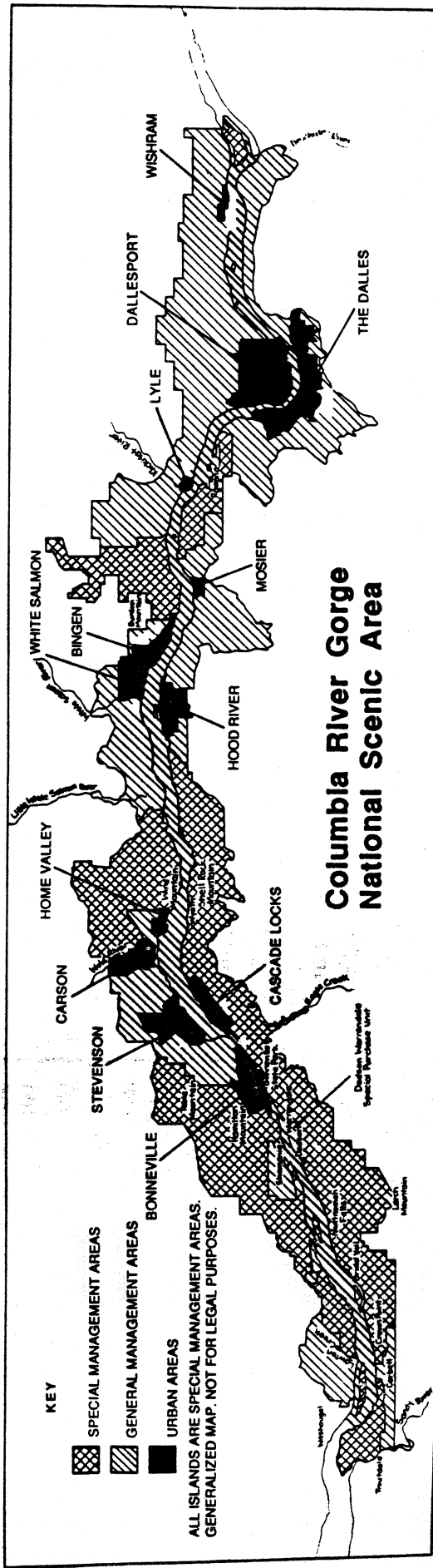
Agency	Program	Advisory	Regulatory	Grants	Loans	Technical Assistance	Information, Research	Permits, Licenses	Planning	Pollution Control	Land Acquisition, by Eminent Domain	Land Acquisition, by Less-Than-Fee Donation, Exchange or Willing Seller	Resource-Land Management	Taxes, Property Assessments, Bonds	Primary Responsibility in Scenic Area
Federal Agencies															
U.S. Department of Agriculture	Agricultural Stabilization & Conservation Service			X		X	X								
	Soil Conservation Service			X		X	X			X					
	Forest Service	X		X		X	X		X						X
U.S. Department of Commerce	Economic Development Administration			X	X										
	National Marine Fisheries Service	X			X			X	X						X
U.S. Department of Defense	Army Corps of Engineers	X		X		X	X	X	X						X
U.S. Department of Housing and Urban Development	Community Planning and Development			X			X		X						
U.S. Department of the Interior	Bonneville Power Administration		X			X	X		X						
	Bureau of Indian Affairs	X		X		X	X		X		X		X		X
	Heritage Conservation and Recreation Service			X		X	X		X				X		
	National Park Service			X		X	X		X				X		
	U.S. Fish and Wildlife Service	X		X		X	X	X	X		X	X	X		X
U.S. Department of Transportation	Federal Highway Administration		X	X		X	X		X						
	Federal Railroad Administration	X		X		X	X					X			
	U.S. Coast Guard	X		X		X	X								
U.S. Department of the Treasury	Office of Revenue Sharing			X											
Environmental Protection Agency	Executive Office of the President		X	X		X	X	X	X	X		X			X
	Council on Environmental Quality	X	X				X								
	General Services Administration					X									
	Water Resources Council	X		X					X						
Interstate/Regional Agencies															
	Columbia River Gorge Consortium	X							X						
	Columbia River Fish Compact	X													
	Pacific Northwest Regional Commission	X		X		X	X		X						
	Pacific Northwest Federal Regional Council	X		X		X	X		X						
	Pacific Northwest River Basins Commission	X		X		X	X		X						

Agency	Program	Advisory	Regulatory	Grants	Loans	Technical Assistance	Information, Research	Permits, Licenses	Planning	Pollution Control	Land Acquisition, by Eminent Domain	Land Acquisition, by Less-Than-Fee Donation, Exchange, or Willing Seller	Resource-Land Management	Taxes, Property Assessments, Bonds	Primary Responsibility in Scenic Area
Oregon State Agencies															
Columbia River Gorge Commission						X	X		X						
Department of Economic Development															
Economic Development Commission				X		X	X		X	X					
Fort Division		X	X	X	X	X	X		X	X					
Department of Energy															
Energy Facility Siting Council				X					X						
Department of Environmental Quality															
Environmental Quality Commission		X	X			X	X	X		X					
Department of Fish and Wildlife															
Fish and Wildlife Commission				X		X	X	X	X	X			X		
Department of Forestry		X	X			X	X	X					X		
Department of Land Conservation and Development															
Land Conservation and Development		X	X			X	X	X							X
Department of Revenue				X										X	
Department of Transportation															
State Highways Division		X	X	X		X	X		X		X		X	X	X
Parks and Recreation Branch				X		X	X		X				X	X	X
Division of State Lands															
State Land Board		X	X	X		X		X	X	X		X	X	X	X
Natural Preserves Advisory Commission	X					X									
Domestic and Rural Power Authority		X	X	X				X			X		X		
Shorelines Hearing Board		X						X							
Water Resources Department															
Water Policy Review Board		X	X			X			X	X					
Washington State Agencies															
Columbia River Gorge Commission	X					X	X		X			X			X
Department of Commerce and Economic Development				X	X	X	X		X						
Department of Ecology		X	X			X	X	X		X					
Department of Fisheries						X	X	X				X	X		
Department of Game						X	X	X				X	X		
Department of Natural Resources		X				X	X	X		X		X	X		X
Department of Revenue		X				X	X							X	
Department of Transportation		X	X					X	X		X		X	X	
Energy Facility Siting Evaluation Committee								X		X					
Interagency Committee for Outdoor Recreation			X			X	X		X						
Parks and Recreation Commission		X	X			X	X		X			X	X		X
Planning and Community Affairs Agency			X			X	X	X							
Utilities and Transportation Commission		X				X	X	X							
Regional, Local, and Special District Agencies															
Cities/Towns, Oregon/Washington		X					X	X	X		X	X	X	X	X
Clark County Regional Planning Council	X					X	X	X	X						
Council of Governments, Oregon, District 9, Hood River, Wasco, and Sherman Counties	X					X	X	X	X						
Counties, Oregon/Washington			X				X	X	X	X	X	X	X	X	X
Domestic Water Supply Districts, Oregon		X	X					X	X	X	X	X	X	X	X
Klickitat Regional Planning Council	X							X	X						
Metropolitan Service Districts, Oregon		X						X	X	X	X	X	X	X	X
Mid-Columbia Economic Development District	X		X	X		X	X	X	X	X	X	X	X	X	X
Municipal Utility Districts, Oregon		X						X	X	X	X	X	X	X	X
Park and Recreation Districts, Oregon/Washington		X						X	X	X	X	X	X	X	X
Peoples Utility Districts, Oregon		X						X	X	X	X	X	X	X	X
Ports of Oregon and Washington		X	X				X	X	X	X	X	X	X	X	X
Port of Portland		X	X				X	X	X	X	X	X	X	X	X
Public Utility Districts, Washington		X						X	X	X	X	X	X	X	X
Sanitary Districts, Washington		X						X	X	X	X	X	X	X	X
Skamania Regional Planning Council	X							X	X	X	X	X	X	X	X
Water Districts, Washington		X						X	X	X	X	X	X	X	X

Source: Study of Alternatives Columbia River Gorge, National Park Service, (April 1980).

The Columbia River Gorge National Scenic Area

1988/1989



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Summary of Columbia River Gorge National Scenic Area Act
(P.L. 99-663)

Section 2. Definitions

Definitions provided for "adversely affect," "major development actions," "open spaces," "residential development," etc.

Section 3. Purposes

The purposes of this Act are-

- 1) to establish a national scenic area to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resource of the Columbia River Gorge; and
- 2) to protect and support the economy of the Columbia River gorge area by encouraging growth to occur in existing urban areas and by allowing future economic development in a manner that is consistent with 1) above.

Section 4. Establishment of the Scenic Area

The boundaries of the Scenic Area are established as well as the process for revising boundaries.

Section 5. The Columbia River Gorge Commission

(a) Establishment and membership of the Commission

A) The state of Oregon and Washington are authorized to create (within one year) through an interstate agreement a regional agency known as the Columbia River Gorge Commission. The Commission is to follow provisions of the interstate agreement and is not to be considered an agency of the federal government.

B) The states are to give the Commission, state agencies and counties authority under state law to carry out tasks outlined in the interstate agreement.

C) Membership of the Commission shall be as follows:

- i) one member from each of the six Gorge counties (3 in Oregon and 3 in Washington) to be appointed by the county governments
- ii) three members who reside in Oregon (at least one must live in the Scenic Area) to be appointed by the Governor of Oregon
- iii) three members who reside in Washington (at least one must live in the Scenic Area) to be appointed by the Governor of Washington
- iv) one ex-officio non-voting member who is a Forest Service employee

Commission terms are four years except for initial appointments which are staggered so that 4 members serve five year terms and four members serve six year terms.

Commission members cannot be federal, state or local elected or appointed officials or officers or employees of the U.S. (except for the ex-officio member).

The Commission shall appoint, fix compensation for, and assign and delegate duties to such officers and employees as the Commission deems necessary to fulfill its function under the Act.

Compensation of Commission members, officers and employees and the expenses of the Commission shall be paid from funds provided to the Commission by the States.

The Department of Agriculture can provide technical assistance to the Commission on a non-reimbursement basis. All other federal assistance is to be provided on a reimbursement basis.

Section 6. The Scenic Area Management Plan

(a) Studies-

Within one year after the Commission is established it shall, in cooperation with the Forest Service, complete the following studies for use in preparing the management plan:

- (1) Resource Inventory- to document all existing land uses, natural features and limitations, scenic, natural, cultural, archaeological and recreation and economic resources and activities.
- (2) Economic Opportunity Study- to identify opportunities to enhance the economies of communities in the scenic area in a manner consistent with this Act.
- (3) Recreation Assessment- an assessment of recreation resources and opportunities for enhancement of these resources.

(b) Land Use Designations-

Within two years after the Commission is established it shall develop land use designations for the use of non-federal lands within the scenic area

(c) Adoption of Management Plan-

Within three years after the date the Commission is established it shall adopt a management plan for the scenic area. The plan must be adopted by a majority vote, including at least three members from each state. The management plan is to be based on the resource inventory, the land use designations, and the following standards:

(d) Standards for the Management Plan-

- (1) protect and enhance agricultural lands for agricultural uses and allow conversion of these lands to open space, recreation development or forest lands
- (2) protect and enhance forest land for forest use and allow conversion to agricultural lands, recreation development or open space

- (3) protect and enhance open spaces
 - (4) protect and enhance public and private recreational resources
 - (5) prohibit major development actions in special management areas
 - (6) prohibit industrial development outside urban areas
 - (7,8,9) require that commercial and residential development outside urban areas, and exploration, development and production of mineral resources take place without adversely affecting the scenic, cultural, recreation or natural resources of the scenic area
- (e) Agency Consultation and Public Involvement
The Forest Service and Commission are directed to consult with Federal, state and local governments having jurisdiction within the scenic area or expertise pertaining to its administration and with Indian tribes. Public hearings and solicitation of public comments should precede the adoption of the management plan and final adoption of land use ordinances.
- (f) Concurrence of the Management Plan-
Procedures established for review by the Forest Service of the management plan. Commission submits plan to the Forest Service. Secretary can: 1) concur, 2) fail to act within 90 days which is deemed a concurrence, or 3) deny concurrence. If concurrence is denied the Secretary makes suggestions of revisions to the Commissions. The Commission can 1) make revisions and resubmit to the Secretary, or 2) by a two-thirds majority vote reject the suggestions of the Secretary and adopt the management plan.
- (g) Revision of the Plan-
The Commission shall review the management plan no sooner than five years but at least every ten years to determine whether it should be revised.
- (h) Amendment of the Plan-
The Commission may amend the management plan at any time.

Section 7 Administration of the Scenic Area

- (a) Management of the Scenic Area
The non-federal lands within the scenic area are to be administered by the Commission in accordance with the management plan.
- (b) Adoption of Scenic Area Land Use Ordinances
Each county in the scenic area must adopt land use ordinances consistent with the management plan within 270 days after the management plan is received by the county. The county land use ordinances must be approved by the Commission by a majority vote including at least three members from each state. If the Commission denies approval of the ordinance, the county is to make modifications to its ordinance within 90 days. If the Commission does not act within 60 days, the ordinance is deemed approved.

(c) Commission Land Use Ordinances

If a county fails to comply with (b) the Commission is responsible for developing a land use ordinance for the county for the use of non-federal lands.

Section 8 Administration of the Special Management Areas

(a) Administration of the Federal Lands-

The Secretary of Agriculture shall administer federal lands in the special management areas in accordance with this Act and other laws, rules and regulations applicable to the national forest system. Also, the construction of roads and the management, utilization and harvest of timber on Federal lands within the special management areas is subject to Forest Service visual resource management guidelines.

(c,d,e) The Secretary is to complete a Resource Inventory, Recreational Assessment and Land Use Designations as in Section 6 (a).

(f) Guidelines for Land Use Ordinances-

Within three years the Secretary in consultation with the Commission, shall develop guidelines to assure that non-federal lands within the special management areas are managed consistent with the standards of section 6.

(h) Adoption of Special Management Area Land Use Ordinances

A process is established for adoption of Special Management Area Land use ordinances similar to the process established in Section 7 (b) with the addition of the Secretary in the concurrence process. The Commission can override the non-concurrence of the Secretary by a two-thirds vote including a majority of the members appointed from each state.

(n) Effect of Secretary's Non-Concurrence-

If the Secretary does not concur in any land use ordinance approved by the Commission the availability of funds to the relevant county will be restricted [see Section 16(c)]

Section 9 Land Acquisition

(a) Acquisition Authorized-

The Secretary is authorized to acquire any lands within the special management areas which the Secretary determines are needed to achieve the purposes of this Act. Lands acquired in Oregon will become part of the Mt. Hood National Forest and those acquired in Washington will become part of the Gifford Pinchot National Forest.

(b) Limits on Eminent Domain-

Secretary cannot acquire land without the consent of the owner if: A) land had been used primarily for educational, religious, or charitable purposes, single-family residential purposes, farming,

or grazing so long as the existing character of that use is not substantially changed; B) land is in counties with land use ordinances approved by the Secretary; D) land is owned by Indian tribes.

(d) Land Exchanges-

The Secretary is directed to acquire by exchange any parcel of privately unimproved forest land of at least 40 acres within the SMA which is offered to the United States by the owner. The Secretary will then convey to the owner federally owned lands within Oregon and Washington deemed appropriate by the Secretary. Forest lands exchanged should be of equal value.

Section 10 Interim Management

(a) Interim Guidelines-

Within 180 days after the enactment of the Act the Secretary shall develop interim guidelines for the scenic area outside the urban areas to identify land use activities which are consistent with this Act. These guidelines will be transmitted to each county and will remain in effect until the county adopts its land use ordinance which is in compliance with the general management plan.

(c) Review of Development Action-

Prior to the adoption by the counties of land use ordinances which comply with the general management plan, the commission shall review all proposals for major development actions and new residential development in the scenic area. Development will be allowed only if the commission determines that it is consistent with the standards for the management plan contained in Section 6(d).

Section 11 Economic Development

(a) Economic Development Plan-

The Commission shall develop a plan for economic development projects for which grants under this section may be used.

(b) Funds Provided to the States for Grants-

Upon certification of the management plan, the Secretary will provide \$5,000,000 to each state to make grants and loans for economic development projects that further the purpose of this Act.

(c) Conditions of Grants-

- 1) All activities undertaken under the grant must be consistent with the purposes of the Act.
- 2) Grants and loans are not to be used to relocate businesses from one community to another.
- 3) Grants and loans can be used only in counties which have in effect land use ordinances found consistent by the Commission and the Secretary with the Act.

Section 13 Tributary Rivers and Streams

Sections of the Klickitat and White Salmon Rivers are to be studied for their potential as Wild and Scenic Rivers under the Wild and Scenic Rivers Act. A section of the Klickitat River is designated as a recreation river, and a section of the White Salmon River is designated as a scenic river.

Section 14 Implementation Measures

- (a) Assistance to Counties-
The Secretary shall provide technical assistance on a nonreimbursable basis to counties for the development of their land use ordinances prescribed by Sections 7 and 8.
- (b) Timber Receipts-
Timber receipts paid to the states for timber harvested in the SMA's - 50% to be spent for public schools and the rest for public roads or public purposes.
- (c) Payment to Local Governments-
For land acquired by the Secretary which was subject to local real property taxes for 5 years before the acquisition (and is located in a county with an approved land use ordinance) the Secretary is authorized to make annual payments to the county in which such lands are located in an amount equal to 1 percentum of the fair market value of the land. The payment will be made for five years after the acquisition.
- (d) Federal Consistency-
Federal Agencies having responsibilities in the scenic area shall exercise responsibilities consistent with the provisions of the Act.
- (e) Limitations of Federal Expenditures Affecting the Scenic Area-
If the Commission is not established within 15 months after the Act is passed, or is disestablished, no new expenditures can be made.
- (f) Transfer of Public Lands-
All public lands in the scenic area administered by the BLM are transferred to the jurisdiction of the Secretary of Agriculture.

Section 15 Enforcement

- (a) Administrative Remedies
 - (1) Commission Orders- The Commission shall monitor activities of the counties pursuant to this Act and take such actions as necessary to ensure compliance.
 - (2) Persons adversely affected by an action relating to the implementation of the Act may appeal the action to the Commission (Appeal process outlined.)

(3) Civil Penalties- Any person who willfully violates the management plan, land use ordinance, or any implementation measure issued by the Commission may be assessed a civil penalty by the Commission not to exceed \$10,000.

(b) Judicial Remedies

(1) Civil Actions to Enforce Act- The U.S. Attorney General may, at the request of the Secretary, institute a civil action for an injunction to prevent a person from utilizing lands within the SMA's in violation of this Act.

(2) The Commission or the state Attorney Generals may institute a civil action for an injunction to prevent a person from utilizing lands within the scenic area in violation of the Act.

(3) Citizens Suits- Any person or entity adversely affected may commence a civil action to compel compliance with this Act against the Secretary, the Commission or the county where there is an alleged violation, or against the same where there is alleged a failure of those to perform a duty under the Act which is non-discretionary.

(4) Judicial Review- Any person or entity adversely affected by the Act may appeal the action or order by filing in Federal District Court a petition requesting that the action or order be terminated.

Section 16 Authorization of Appropriations

(a) Authorizations-

There are to be authorized for fiscal years after 1986 the following sums:

(1) \$40,000,000 for the acquisition of lands, water and interests pursuant to this Act (provided that no more than \$10,000,000 is used to acquire lands in the interim period before the management plan is adopted.) The money is to be appropriated from the Land and Water Conservation Fund.

(2) \$2,000,000 for providing payments to local governments.

(b) There are to be authorized for fiscal years after 1986, effective upon concurrence on the management plan:

(1) \$10,000,000 for construction of an interpretive center

(2) \$10,000,000 for construction of recreation facilities

(3) \$2,800,000 for restoring the Columbia River Scenic Highway

(4) \$5,000,000 to each state for providing economic development grants

(c) Availability of Funds-

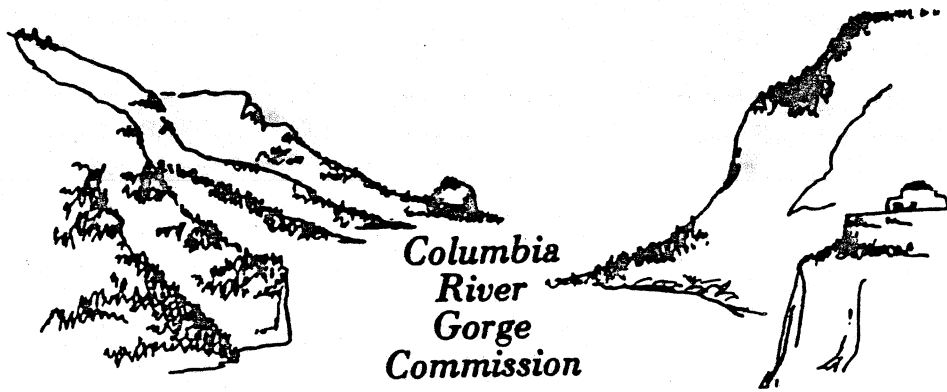
Funds shall not be made available for any county which does not have in effect a land use ordinance which has been found to be consistent by the Commission and concurred by the Secretary as consistent with the management plan pursuant to section 8 of this Act.

Section 17 Savings Provisions

- (a) Nothing in this Act shall: affect or modify any treaty or other rights of any Indian tribe, etc.

Section 18 Severability

If any provision of the Act is held invalid, neither the remainder of the Act nor the application of any provisions shall be affected.



LIST OF COMMISSION MEMBERS

Oregon Appointees

Stafford Hansell, Hermiston, Oregon; Experience: Chairman of Land Conservation Development Council; OR State Legislator; Director State Executive Department; Director of Oregon Community Foundation; Director of Oregon Historical Society; and, on the National Board of Common Cause.

Dona... Clark, Portland, Oregon; Experience: Executive Director of the Central City Concern; senior associate for Cogan and Associates, a land use consulting firm; Multnomah County Commissioner; Multnomah County Sheriff.

Barbara Bailey, The Dalles; Experience: Board of Directors of Orchard View Farms; Columbia Gorge Arts Council; Scenic Highway Task Force of Preservation League of Oregon; the Wasco Planning Commission; The Dalles Chamber of Commerce; and, Friends of the Columbia Gorge.

Joyce Reinig, Hood River County, Hood River; Experience: Hood River Planning Commission; Chairperson Hood River Land Conservation Development Council Goals Committee; Commissioner for Scenic Protection and Combining Zones; business woman; nurse.

Ray Matthew, Wasco County, The Dalles; Experience: The Dalles City Planning Commission, Wasco County Planning Commissioner; Budget Committees for City and County; President of National Fruit Distributors Association.

Kristine Olson Rogers, Multnomah County; Attorney

Pat Bleakney, Dallesport, Klickitat County; Experience: Chairman Klickitat Planning Commission; President Cattlemen's Association; Chairman Lyle School Board; Fire Commissioner; Rancher; Bank Loans Officer.

Nancy Sourek, Carson, Skamania County; Experience: Director, Skamania County Department of Emergency Services; (more information unknown at this time.)

Bob Thomas, Clark County; Clark County Public Utility District

Washington Appointees

David L. Cannard, Vancouver; Experience: Co-chair, Friends of the Gorge; (more information unknown at this time.)

Gayle Rothrock, Vancouver; Experience: Member of Washington State Pollution Control Hearings Board; Washington State Shorelines Hearing Board member; consultant in management, supervision and public affairs to businesses and public agencies; consultant and adjunct professor to two Washington colleges.

Stuart Chapin, White Salmon; Experience: Commissioner of former Washington Columbia Gorge Commission; Tennessee Valley Authority Planner; North Carolina Planner; Professor of Land Use Planning.

Forest Service Appointee

Art DeFault, Director of National Scenic Area Office

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