

FRIENDS OF THE COLUMBIA GORGE

Comments by Friends of the Columbia Gorge Regarding Urban Area Boundary Revisions Before the Land Conservation and Development Commission December 8, 2011

Thank you for the opportunity to comment. Friends of the Columbia Gorge (Friends) is a non-profit organization with approximately 5,000 members dedicated to protecting and enhancing the resources of the Columbia River Gorge. Our membership includes hundreds of citizens who reside in the six counties within the Columbia River Gorge National Scenic Area. These comments will address whether and how urban areas within the Columbia River Gorge National Scenic Area (“National Scenic Area”) may revise their boundaries.

As a threshold issue, the Oregon Department of Land Conservation and Development (“DLCD”) should recognize that the National Scenic Area Act standards for modifying federally-designated urban areas preempts any conflicting state land use standards for the expansion of state-designated urban growth boundaries (“UGB”). The National Scenic Area Act prohibits a significant expansion of an urban area, which necessarily constrains the expansion of UGBs.

The Scenic Area Act gives the Gorge Commission authority to “make *minor revisions* to the boundaries of any urban area.” 16 USC 544b(4)(f)(1) (emphasis added). The Act also provides four additional criteria that must be applied prior to approving a minor revision. 16 USC 544b(4)(f)(2). These criteria include compliance with the purposes and standards of the Act, compliance with the Management Plan, a prohibition on a significant reduction in agricultural, forest, or open space lands, and a mandate to maximize the efficiency of land uses in all urban areas.¹ Of particular concern are the requirements that revisions be “minor” and the mandate to

¹16 USC 544b(4)(f)(2):

- The Commission may revise the boundaries of an urban area only if it finds that—
- (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.

maximize efficiency of land uses in urban areas, which establishes a mandate for regional planning.

The Scenic Area Act only allows “minor revisions” to urban area boundaries.

The plain language of the Scenic Area Act only allows “minor revisions” to urban area boundaries. 16 USC 544b(4)(f)(1). The Scenic Area Act does not define the term “minor revision” and the Gorge Commission has not adopted a definition in the Management Plan or in the Commission Rules.² Nonetheless, the term “minor” must be given substantive meaning when considering any proposal to revise an urban area boundary.

The Gorge Commission has previously held workshops with individuals that were involved with the drafting of the Scenic Area Act and government officials from Washington and Oregon with expertise in land use planning. These workshops, along with legislative history, highlighted the Act’s plain-language requirement that alterations to Urban Areas boundaries be limited to minor revisions. The Scenic Area Act’s minor revision limitation imposes a higher standard than Oregon’s land use planning laws. Since the Scenic Area Act standard governs, DLCD should avoid considering any revisions to state-designated UGBs until a proposal is first reviewed for consistency with Scenic Area Act requirements.

The Scenic Area Act requires the Gorge Commission to maximize the efficiency of land uses in all urban areas.

The Scenic Area Act expressly states that “[t]he Commission may revise the boundaries of an urban area only if it finds that [the revision] would result in the maximum efficiency of land uses within and on the fringe of *existing urban areas*.” 16 USC 544b(4)(f)(2)(C) (emphasis added). This provision requires that the Commission consider the efficiency of land uses in nearby urban areas when any individual urban area proposes a revision of its boundaries. Within the National Scenic Area, many urban areas are in sufficient proximity to one another that population growth rates, residential occupancy rates, economic growth, and land need forecasts are highly interrelated. Consequently, a proposal to expand one urban area must include consideration of development trends and the availability of land in nearby urban areas.

For example, the cities of White Salmon and Bingen share a single urban area boundary and are immediately across the Columbia River from the City of Hood River. Due to the close proximity and interrelated economies, development trends in White Salmon have a direct impact on development trends in Bingen and Hood River. Conversely, demand for residential housing in Hood River affects demand for housing in White Salmon and Bingen.

Similarly, Dallesport and the The Dalles are adjacent to each other and have interrelated economies and needs. Development trends in The Dalles urban area affect development trends in the Dallesport urban area and vice-versa. In fact, The Dalles controls land in Dallesport through its ownership and management of the Columbia Gorge Regional Airport. In managing airport

² The Gorge Commission’s rules for urban area revisions incorporate the Act’s requirements verbatim. Commission Rule 350-40, which is codified in Oregon at OAR 350-040.

lands, The Dalles already blurs jurisdictional lines and partners in proposals for commercial, industrial, and residential development in Dallesport.

Given this context, the Scenic Area Act's mandate to maximize efficiency of land uses in multiple urban areas is eminently practical. Indeed, through the bi-state compact and the Gorge Commission there is already legal framework for inter-jurisdictional cooperation.

Notably, this regional approach is supported by Oregon land use law. Oregon law requires that a city's land needs analysis be based on the best available information and methodologies. OAR 660-024-0040(1). A city must also use data from a wider geographic area if this broader analysis will give more accurate information. ORS 197.296(5)(c). Given the intimate connection and intra-jurisdictional partnerships in Gorge communities like The Dalles and Dallesport, an evaluation of land needs for one urban area must factor in development trends in other nearby urban areas.

Due to Scenic Area Act requirements and the economic recession, The Dalles would need to revise its population forecast, buildable lands inventory, and other supporting documents prior to initiating the process for revising its UGB.

The City of The Dalles has previously commissioned several studies and reports to support its desire to expand its UGB. This includes a population forecast, a buildable lands inventory, a residential lands needs report, an economic opportunities analysis, and other supporting materials. These materials would need to be substantially revised prior to submitting an application for a minor revision of the urban area boundary or expanding the UGB.

As an initial matter, extensive studies would be irrelevant if used to justify a major expansion of The Dalles urban area boundary, which would violate the National Scenic Area Act. In addition, the existing studies and reports do not satisfy the Scenic Area Act's requirements for a regional approach to revising urban area boundaries. For example, The Dalles did not factor in development trends in Dallesport and demonstrate that its desired expansion would ensure the maximum efficiency of land uses in urban areas. In the absence of this analysis, the supporting documents would not satisfy the Act's minor revision criteria.

In addition, these studies were originally prepared in 2006 and 2007, before the nation entered the most severe economic recession in decades. The recession has had a substantial impact on local economies, which in turn affects population growth, economic development opportunities, and the need for commercial, industrial, and residential lands. This significant change in conditions warrants preparation of new studies that provide the most reliable estimates possible.

Friends encourage DLCD, the Gorge Commission, and local communities to focus scarce resources on planning for sustainable development within existing urban area boundaries.

Friends encourages The Dalles to concentrate its scarce resources on planning for sustainable growth within its existing urban area. Sustainable growth means a more livable community; saving tax dollars on infrastructure improvements; providing transportation choices for people; reduced dependence of fossil fuels; a cleaner, safer environment; and better protection for farm

land, forest land and open spaces. Sustainable growth can create an economically and civically vital community with tangible benefits to the environment, public health, and the local economy. If necessary, future urban growth could be realized in the adjacent community of Dallesport, where there are thousands of acres of undeveloped land and where The Dalles has already invested in urban infrastructure.

The Dalles, the Gorge Commission, and DLCD should not spend dwindling tax payer dollars in pursuit of an urban expansion that is obviously inconsistent with the requirements of the National Scenic Area Act. The National Scenic Area Act only allows minor revisions to urban area boundaries and requires protection and enhancement of scenic, natural, cultural and recreation resources.

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EXHIBIT: 2 AGENDA ITEM: 4
LAND CONSERVATION & DEVELOPMENT
COMMISSION
DATE: 12-8-11
SUBMITTED BY: Peter Cornelison

Remarks to: Department of Land Conservation and Development Staff and Commission
The Dalles, OR on December 8, 2011

Dear DLCD,

Thank you for the opportunity to speak today. My name is Peter Cornelison and I live in the City of Hood River. I am the board chairperson of the Hood River Valley Residents Committee, which is the third oldest land use watchdog group in Oregon. I am also a staff member of Friends of the Columbia Gorge - however my remarks today are as an individual citizen, one who loves our state and the Columbia Gorge.

I want to address the issue of the urban expansion of The Dalles, a topic we all learned more about yesterday during the tour and excellent round table discussion.

I agree with the suggestion to hold a joint facilitated stakeholders meeting on this topic. Agencies, interest groups and citizens from both Oregon and Washington should be included in crafting a unique regional solution to this issue.

I believe most people that live in the Gorge consider themselves as Gorge residents first and residents of their respective states second. In my view we live here primarily for the quality of life and although we live in unique and different communities the overwhelming attitude is that we are all Gorge residents. A bi-state, regional, big picture solution is needed - one that could set an example for future cooperation on a host of other Gorge issues.

DLCD is the agency to partner with the Gorge Commission and other interest groups to make a regional solution happen. Your help and leadership on this issue would focus attention on the Gorge and the Gorge Commission. I believe it would cause the appropriate agencies in Washington to sit up and take notice and it would likely gain the Gorge Commission more bi-state attention and funding which it needs.

In closing I want to advocate for another idea that was raised yesterday, that of no-net-loss to the open space lands of the National Scenic Area. The concept that if open space resource land is taken away for urban expansion then new open space land needs to be added so that there is no net loss to the open space lands of the National Scenic Area. The Columbia Gorge unit of the National Forest Service has conducted land acquisition activities for years in the Gorge so the system for land purchases already exists.

The Columbia Gorge is an international treasure. An incredibly special 85 mile long ribbon of land, water and air. It is the Golden Goose that drawn so many of us here and which continues to draw people here. It has been the foundation of Native American life here for over 10,000 years, over 300 generations. Let's craft a solution worthy of the Gorge and its people to address this issue and lead the way forward towards more region wide cooperation.