From: Maryanne and Bob Leipper
To: WaysandMeans.NaturalResourcesSub@state.or.us
Subject: SB 5511, Columbia River Gorge Commission
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The Columbia River gorge deserves protection and the National Scenic Area (NSA) Act was supposed to be a step in that direction, but it hasn't been protected because of the actions and inactions of the gorge commission and commission staff.

Issue No. 1: Enforcement (section 15 of the NSA Act) has been ignored, sometimes deliberately so. In 2011, the commission celebrated 25 years of the NSA. They didn't tell you the worst violator of the gorge regulations had been thumbing his nose at NSA regulations for 21 of those years and those multiple violations are still unresolved to this day. Multnomah County is the worst for the number of unresolved enforcement cases (100+ the last time Multnomah County publicized data, which they don't do anymore). Multiple executive directors of the gorge commission have taken the position that enforcement is a low priority, even though the commission has the authority to impose fines on violators. They have not imposed fines because they don't want any bad publicity. One former commissioner once complained that even if they imposed a fine, any fine collected would go to the state's general fund, not to the commission. The gorge commission's own report on enforcement, noting over 60% non-compliance, has been ignored. Taxpayers paid for this November 2000 report to sit on a shelf. In the last 12 years, enforcement has never been a starred item on any gorge commission meeting agenda on which the public can participate in the discussion and comment and nobody has been able to show me that it has ever in the last 27 years been a starred agenda item.

Issue No. 2: When agency heads testify before any committee, it would be nice if they gave committee members honest, accurate information. That has not been the case with past testimony from gorge commission executive directors. About ten years ago one Ways and Means member asked how large was the largest house built in the gorge. The answer given was "7,000 square feet, not yet approved." That was not true and the executive director knew it because I had been mentioning the largest house, built in 1992, (estimated by the Friends of the Columbia Gorge (FOCG) at over 21,000 sf, listed presently for sale at 14,000 sf not including an attached nine car garage) for several years as an example of non-compliance with conditions of approval. No too long ago this committee was told by another executive director "We are almost a federal agency." The NSA Act specifically states the gorge commission is not a federal agency. It is a real eye-opener when I attend a gorge commission committee meeting or "training" session and the attitude is "how can we champion the good news and bury the bad news (from the public and legislatures)". Honesty and transparency matter.

Issue No. 3: In more recent years the commission has claimed they need funding to continue the Vital Signs Indicators project. This again, like the NSA Act, was and still is a good concept but also like the NSA Act has been badly executed by the commission and especially by the commission staff. I was a member of the Citizens Advisory Committee (CAC) and consider all members of that committee to be favorable to the NSA, but Gorge Commission staff made sure that committee's advice and final written report was nullified or ignored in most cases. When the CAC suggested an indicator for exterior lights, the gorge commission planning staff first tried to quash that advice, but were overruled by the gorge commission. The Technical Advisory Committee (TAC), chosen by the commission staff, were

supposed to be "experts", but ignored scenic values after sunset, even with a FOCG member. Today that indicator, even though it is one of the easiest to document, is still languishing, not because of lack of funding but because of lack of commitment. The TAC Recreation "expert" prepared a report on the Sandy River delta area, but completely missed the main recreation activity year-around: dog walking. When questioned about this after a verbal report before the full gorge commission he admitted he saw many dog walkers but never explained why it failed to show up in his report. Throughout the Vital Signs project the CAC was told repeatedly that enforcement would be covered in "phase 2, agency performance measures". But when phase 2 came around, the agency performance measures were prepared by the commission planning staff itself, not even by an independent TAC or outside consultant. And enforcement was ignored.

Issue No. 4: Twenty seven years after the NSA Act was passed and Oregon taxpayers are still paying for land use approvals in Klickitat County, Washington. Oregon counties and taxpayers have had to suffer under a gorge commission imposed moratorium on plan amendments for several years, with the excuse that there is not enough funding to do plan amendments. Why isn't there a moratorium on land use approvals for Klickitat County? And if there wasn't enough money to do plan amendments, then why did a former executive director push for a horse boarding plan amendment to evade an enforcement action in - - - Klickitat County!!!!

Issue No. 5: This same horse boarding plan amendment allows for unlimited size buildings, while other non-horse boarding property owners are limited to 1500 sf accessory buildings. Scenic values under this amendment is questionable, fairness wasn't even considered, and the horse boarder doesn't even have to continue that activity. But that is not the worst management plan blunder. Under the NSA Act, the gorge commission is required by law to conduct a management plan review every ten years. In the last 27 years they have done one, even neglecting a review in years when they have been fully funded. At the last review I suggested, for clarification, retaining walls (not even mentioned in the plan at that time) be listed as a outright allowed use for one low height and length, requiring an expedited review for up to 3 feet high and full review for higher walls. This was similar to other proposals on garden sheds, which could have been 18 feet high at the time, but were proposed to start at 60 sf x 10 ft high without permit, then requiring an expedited review for up to 200 sf and a full review for over that. The senior staff planner at the time however, didn't like my proposal on retaining walls. He disliked my mentioning the largest house (see Issue No.2) in public meetings in regards to enforcement even more because he was the one who approved that house. So now in the management plan, <u>all</u> retaining walls of <u>any</u> height or length, whether visible from a key viewing area (KVA) or not, require a permit. Thankfully, that planner is no longer with the gorge commission staff, but the regulation is still there, which if enforced would require a permit for a 12 inch high x 8 ft square sandbox in a property owner's backyard, not visible from any KVA. The Columbia Gorge is not being overrun with retaining walls and there is no excuse for vindictive planning. For the past several years, "training" for commissioners, consultants, bus tours, forums, Klickitat County land-use reviews and lengthy, unproductive meetings have been the priority for spending taxpayer funding instead of preparation for the next management plan review.

Issue No. 6: While the rest of Oregon, particularly rural Oregon, is strangled by LCDC's $80,000 rule, there is no such <u>mandatory</u> income requirement in the NSA. A property owner can <u>claim</u> he has made $40,000 without any proof whatsoever and it

is accepted. Even though commission staff have claimed in the past that all county decisions are reviewed, no effort is made to verify any such income claims and the management plan doesn't require truthful applications anyway. If the $80,000 rule is so great for the rest of Oregon, why does it not apply in the NSA? Recently, a gorge commissioner submitted an application to build a new house in the NSA, claiming the site was not visible from a KVA. It was, and that commissioner admitted it in a public meeting, claiming it was an inadvertent error. Then she filed another application for a second site closer and more visible to the same KVA, again claiming not to be visible from any KVA. That commissioner has been replaced but when a sitting gorge commissioner doesn't have to be truthful on an application, how do you think the gorge is protected and what message does that send to the public?

Before this sub-committee approves the budget for the gorge commission, please ask yourselves these questions:

1. Are the gorge commission representatives testifying before you really telling you the truth or just what they think you might want to hear?
2. How is the gorge commission and particularly the commission planning staff ensuring enforcement is equally applied throughout the various counties and has the commission planning staff been totally transparent with the public and this legislature in enforcement/compliance matters?
3. How are the priorities of the gorge commission and commission planning staff meeting the legal requirements of the NSA Act?
4. Is this the best use of taxpayer dollars, or are there better ways that should be discussed, including replacing/updating the NSA Act and compact if necessary?

As you may know, in the past several years there has been a turnover of gorge commissioners and commission planning staff, including a new executive director. There is hope this new blood will tackle the problems created by past commissions and commission planning staff, but if they cannot demonstrate to this committee and the public a new direction, then funding should either be curtailed or severely limited with multiple strings attached.

A parting shot by a former executive director said it best: "Mr. Leipper is correct, it IS a matter of priorities.

Bob Leipper
PO Box 94
Troutdale, OR 97060