



**Testimony on SB 5508**  
**Before the Ways and Means Subcommittee on Natural Resources**  
**By Michael Lang, Conservation Director, Friends of the Columbia Gorge**  
**March 8, 2021**

Thank you for the opportunity to submit testimony on the behalf of Friends of the Columbia Gorge (“Friends”). Friends is a nonprofit group with 6,200 members dedicated to protecting the scenic beauty and the natural and cultural heritage of the Columbia River Gorge for our children and future generations. Our members live, work, and recreate within the Columbia River Gorge.

The Columbia River Gorge National Scenic Area is a natural scenic treasure and also home to nearly 70,000 people in Oregon and Washington. It is protected by the Columbia River Gorge National Scenic Area Act. The primary purpose of the Scenic Area Act is to protect and enhance the scenic, natural, cultural, and recreation resources of the Columbia River Gorge. The second purpose is to support the economy by encouraging economic growth to occur in existing urban areas and to take place in a manner consistent with resource protection.

Friends supports the Columbia River Gorge National Scenic Area Act (Act) and the corresponding Columbia River Gorge Compact between Oregon and Washington (ORS 196.150 and RCW 43.97.015, respectively). We also support sufficient funding for the Columbia River Gorge Commission (“Commission”) to carry out its mandatory duties to protect and provide for the enhancement of the outstanding resources of the Gorge. This includes enforcement of the Act, the Management Plan, and its implementing land use ordinances throughout the National Scenic Area on nonfederal land.

This year, the legislature will consider HB 5508, the proposed 2021-2023 budget for the Commission, which would provide funding for the Commission to carry out its core responsibilities, including implementing the newly revised Management Plan, reviewing land use ordinances in the gorge counties, issuing land use decisions in Klickitat County, developing a climate action plan, monitoring the impacts of land use and development on Gorge resources, and protecting the economy of the Gorge by encouraging growth in existing urban areas.

Perhaps the most important function of the Commission is the mandatory duty to monitor land uses and development throughout the National Scenic Area and enforcing violations of the Act. The Act is unequivocal on the Commission enforcement responsibilities.

The Columbia River Gorge National Scenic Area Act requires the Commission to monitor the activities in the counties and ensure compliance with the Act. 16 USC 544m. Congress gave the Commission civil penalty authority up to \$10,000 per day, per violation.

The Executive Director is required to issue notices of violations when presented with evidence of a violation. Commission Rule 350-30-030(1) (“If the violation is not de minimis, the Director *shall* serve written notice of violation on the alleged violator by personal service or by registered or certified mail.” (Emphasis added)).

The Executive Director is also authorized to “issue a summary order requiring the alleged violator to promptly stop work or take other necessary action pending a notice of alleged violation” if “an imminent threat exists to resources protected under the law and/or to public health, safety or welfare.” Commission Rule 35-30-100.

### **Lack of Implementation and Enforcement**

While Friends supports the Governor’s budget for the Commission, we are very concerned that the Commission is not carrying out its mandatory duty to enforce violations of Gorge protection laws.

For the past several years, the Commission has not performed its mandatory duties to monitor land use activities in the counties and ensure compliance throughout the National Scenic Area. Instead of using its broad enforcement and civil penalty authority over major violations, it has attempted to pass these responsibilities on to citizens and to the gorge counties that possess far less authority and resources.

The ongoing violations are large in scale and involve significant resource damage. In 2019, we brought to the Subcommittee’s attention the case of an unpermitted quarry near Steigerwald Lake National Wildlife Refuge in Clark County, Washington. Due to the Commission staff’s inaction, the quarry continued to operate without a valid permit and in violation of a 1997 consent decree and order issued by the Commission. To stop this unpermitted mining, Friends and surrounding landowners were forced to bring a costly appeal to the Commission, where we eventually prevailed. To this day, the mining company has not been assessed a single penny in

civil penalties by the Commission for its post-1997 violations of the consent decree and the National Scenic Area land use ordinances. The message being sent by the Commission staff is clear: developers, including mining companies, have the green light to openly violate laws that protect our national scenic treasure.

**Friends requests that the Subcommittee provide direction and funding to the Gorge Commission to prioritize enforcement against violations of the National Scenic Area Act by implementing Commission Rule 350-30. Furthermore, we respectfully ask the Subcommittee to require periodic reporting to the Legislature on its enforcement activities throughout the National Scenic Area.**

Thank you very much for your interest in protecting the Columbia River Gorge and for providing funding to the Commission so it may carry out these important functions.