



Cross Road:

Complexity, Capacity, and the Future Legitimacy of the Columbia River Gorge Commission

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* **DISCLAIMER:** This report was prepared by the authors under contract with the Columbia River Gorge Commission. Its conclusions and recommendations are those of the authors and do not represent the official views of Portland State University, the University of Washington, or the states of Oregon or Washington.

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SECTION 1: INTRODUCTION

The states of Oregon and Washington share responsibility, along with the United States government, for preserving a place of incredible grandeur and national importance. Straddling the border between the two states, the Columbia River Gorge National Scenic Area provides residents and visitors breathtaking vistas and a host of outdoor recreational opportunities. Its beauty features significantly in the quality of life of regional residents and helps draw talented professionals from other parts of the country into the region's economy. It is also a place of working lands, supporting timber harvest, orchards, vineyards, farms, and ranches. It is a place of craft breweries, family-owned wineries, and large and boutique businesses. It is a place of retreat, where families own land and homes for purposes of vacation or retirement. It is a home. And it is place of deep spiritual and cultural importance to the people of four federally recognized Indian tribes whose ancestors fished its waters and hunted and gathered on its land for millennia.

The Columbia River Gorge rose to national prominence through passage of the *Columbia River Gorge National Scenic Area Act* (the Scenic Area Act, or Act) in 1986. Proponents of federal protection for the Gorge – based largely in Portland, Oregon – were concerned that land development proposals and practices on the Washington side of the river threatened the Gorge's splendor. Meanwhile, many Gorge residents resented the restrictions on local decisions and economic growth being promoted by what they perceived as urban elitists intent on preserving the Gorge as their own "private Elysium" (Abbott, Adler, and Abbott 1997, pp. 23-41). The Act subsequently emerged from a contentious and often bitter debate over urban and rural values, political ideologies, and the role of government in land use decisions (Blair 1986; Abbott, Adler, and Abbott 1997; Durbin 2013). While the acrimony has subsided, pockets of resistance remain that influence interpretations over the Act's meaning, authorities, and implementation (Cameli, Mogren, and Shinn 2014).

The Scenic Area is thus defined by more than its geographic boundaries. It is equally defined by the meanings and values conferred on it by residents and visitors. It is the responsibility of the Columbia River Gorge Commission to provide an institutional framework within which land uses may be planned and reconciled within this context of differing values and meanings. It is the responsibility of the two states to provide sufficient resources for the Commission to do so.

The Columbia River Gorge National Scenic Area Act and the Interstate Compact

The Scenic Area Act directed the two states to establish a Columbia River Gorge Commission (CRGC) through interstate compact (Scenic Area Act, §544c(a)(1)(A)). The Act sought to protect the gorge's natural resources -- including its scenery -- while encouraging but controlling economic development. The Act directed the two states to provide the Commission, state agencies, and counties under state law with the authority to carry out their respective functions as identified within the Act (Scenic Area Act, §544c(a)(1)(B)). Those functions include planning, enacting, implementing, monitoring and enforcing land-use policy within the boundaries of the Scenic Area with the intent of achieving the Act's two stated purposes:

- To establish a national scenic area to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge; and
- To protect and support the economy of the Columbia River Gorge area by encouraging growth in existing urban areas and by allowing future economic development in a manner that is consistent with the first purpose (Scenic Area Act, §544a).

Pursuant to the Scenic Area Act, Oregon and Washington enacted the Columbia River Gorge Compact (the Compact) in 1987. Like other interstate compacts, the Gorge Compact is a unique legal construct with its own body of law. That body of Gorge Compact law lies within yet still a larger national body of interstate compact law. The complicated nature of compact law adds to the complexities the Commission faces (Cooper 2014).

The Commission first convened shortly after passage of the Act and established a set of bylaws by which to operate. The Act, Compact, and bylaws serve as the Commission's guiding authorities. Appendix 1 provides an outline of the functions these three documents charge the Commission with carrying out.

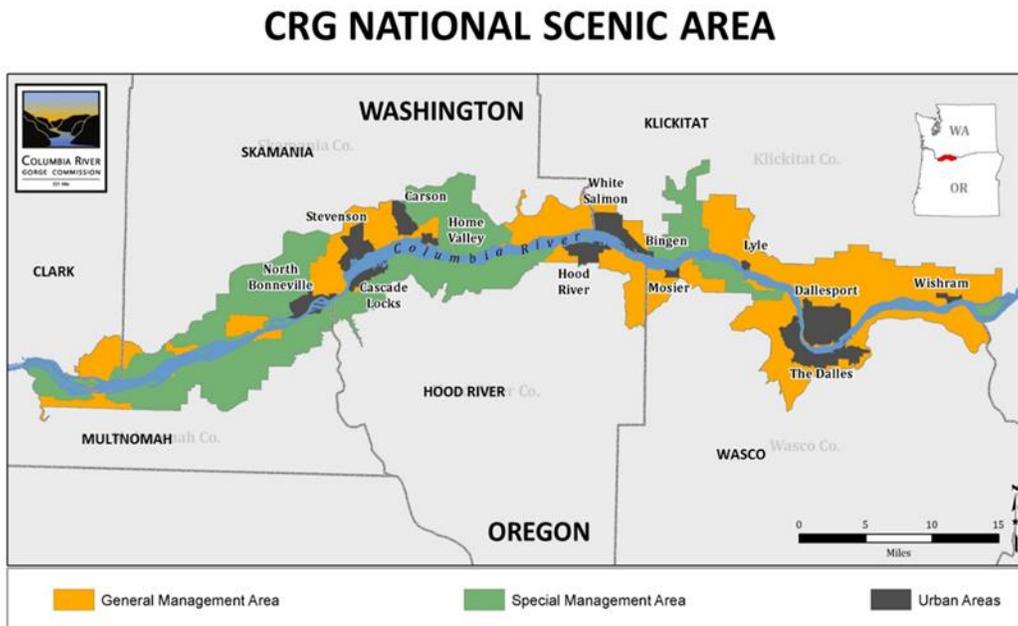
The Columbia River Gorge Commission

The Scenic Area Act and Compact established a thirteen-member Commission to carry out the Act's purposes. Each of the six counties with land within the Scenic Area appoints one commissioner while the two state governors appoint three each. The US Forest Service appoints the thirteenth commissioner who serves as an ex-officio, nonvoting member (Scenic Area Act, §544c(a)(1)(C)). Each commissioner is appointed to serve four years, with terms staggered to maintain stability. No voting member of the Commission may be an elected or appointed official of to any other government body. While not stipulated in the Act or Compact, the Governor of Oregon has traditionally allocated one of his three appointments to a tribal member to help represent tribal interests. Commissioners serve on a volunteer basis and have typically been individuals with great interest and dedication to the Scenic Area Act and Gorge communities. The Commission is supported in its day-to-day responsibilities by a paid staff, which ranged in size from six to ten people over the course of the Commission's existence and numbering six at the time of this writing (Cameli, Mogren, and Shinn 2014). This six-member staff is thus responsible for carrying out all of the Commission's day-to-day functions in protecting the diverse resources and guiding economic development in the National Scenic Area.

The National Scenic Area

The area overseen by the Commission encompasses over 292,000 acres of public and privately-owned property surrounding a uniquely picturesque series of sheer, basalt-faced cliffs up to 2,400 feet in elevation intermittently laced with waterfalls up to 620 feet in height. The Columbia River splits the Scenic Area roughly in half with Washington State to the north and Oregon to the south. Within its boundaries lie the jurisdictions of two states, six counties, thirteen cities, lands held in federal trust for the four Indian tribes, and a number of state and federal agencies. Exhibit 1 provides a map of the Scenic Area as defined by the Act.

Exhibit 1: Map of the Columbia River Gorge National Scenic Area



Map provided by the Columbia River Gorge Commission

Purpose of this Report

Events and circumstances in recent years have led the Commission to believe that the CRGC is not equipped to do what the Act requires and the states and Gorge communities and residents expect. Among those events and circumstances is a trend of declining budgets, decreased staffing levels, and a resulting inability to carry out some of the Commission's most basic functions. Current resource challenges aside, the Commission also questions whether the structure and processes used for the past twenty-six years are appropriate or adequate to meet the challenges and needs of the future.

To address these challenges, the Commission contracted with the Mark O. Hatfield School of Government's Center for Public Service and the Daniel J. Evans School of Public Affairs to conduct an administrative review of the Commission. The intent of this project was to examine the legal and organizational contexts within which the Commission operates, assess its organizational capacity in relation to the functions it is expected to perform, and offer recommendations for improvement. By design, we conducted limited research into the external components of organization capacity, focusing instead on the internal dimensions. However, as external influences can figure significantly in organizational effectiveness (Harrison 2005, Scott 2001 and 2002), these external factors merit further study.

We present the results of this work in the three separate reports described in Section 2. This document serves as a summary and synthesis of those reports. Its purpose is to identify the cross-cutting findings and conclusions of the three reports and provide consolidated recommendations. In essence, it serves as an executive summary of the three foundational reports.

SECTION 2: THE FOUNDATIONAL REPORTS

The project objectives were met through the three reports introduced in the previous section. The first is a legal assessment conducted by Dr. Phillip Cooper. Dr. Cooper provides a public law analysis of the work of the Gorge Commission. This report is based on an analysis of the Commission's statute, the compact, its regulations, and bylaws as well as the case law that has emerged over the years of the commission's operation. It is also based on an analysis of the body of interstate compact law within which the Gorge Commission operates (Cooper 2014).

The second report, prepared by graduate student Lisa M. Cameli and Drs. Eric Mogren and Craig Shinn, analyzed the CRGC's organizational capacity. The report inductively sought to determine (1) what the Commission is required to do and (2) the organizational capacity required to do it. The report identified the functions called for in the Act, Compact, and Commission Bylaws (see Appendix 1) and additional functions identified by the Commission as essential to carrying out the purposes of the Act. It then examined historic trends in funding and staffing, the Commission's operating procedures, and CRGC records to assess the degree to which these functions were being completed and whether the resources provided are and have been commensurate with the task over time (Cameli, Mogren, and Shinn 2014).

The third report provided a comparative assessment of the CRGC with two other interstate commissions. Written by graduate student Victoria Clarke and Dr. Laura Evans, this report examines the mission, structure, resourcing, processes, achievements and challenges of the Tahoe Regional Planning Authority (TRPA) and the Chesapeake Bay Commission (CBC). These three agencies are organized in different ways. TRPA has more formal authority and resources than the Columbia River Gorge Commission. CBC has less formal authority than the Columbia River Gorge Commission but stronger liaisons within state governments. The report assessed each of agency's effectiveness at promoting environmental quality and economic vitality, adequacy of funding, effectiveness at coalition building, and management as portrayed in the media. It also reviewed news coverage over five years (2009 – 2014) for messages available to the public regarding agency performance. Their report then draws lessons from those entities as may be applicable to the Columbia River Gorge Commission (Clarke and Evans 2014).

Drafts of each of the three foundational reports were externally reviewed. All reviewers are recognized experts in the fields of interstate compacts, network governance, intergovernmental relations, natural resource management and policy, and/or the history of the Columbia River Gorge Commission. Reviewers were chosen from a variety of academic institutions. Review comments were sent to the author(s) of each report. The author(s) carefully considered comments and revised their report accordingly. The authors of each report made the decisions of how best to address reviewer comments. Consequently, responsibility for the content of the final reports rests solely with the authors. Copies of all review comments received are on file with the Mark O. Hatfield School of Government Center for Public Service. The three peer reviewed foundational reports served as the primary sources for the material presented in this summary report.

A short biographic sketch of each of our reviewers and the instructions provided for the review are found in Appendix 2. Appendix 3 provides information about the report authors, the Mark O. Hatfield School of Government's Center for Public Service, and the Daniel J. Evans School of Public Affairs.

SECTION 3: SUMMARY OF FINDINGS AND CONCLUSIONS

We derived five thematic findings and conclusions from across the foundational reports. These are (1) the sheer complexity facing interstate commissions in general and the Columbia River Gorge Commission in particular, (2) the dynamic nature of the legal, operational, and political contexts within the interstate commissions that we studied operate, (3) the importance of intergovernmental relationships in carrying out interstate commission functions, (4) the need for continuous education and communication, and (5) an historic shortfall in CRGC resourcing (Cooper 2014; Cameli, Mogren, and Shinn 2014, Clarke and Evans 2014).

We also derived three evolving issues now facing the Commission. These were (1) increasing numbers of Gorge recreational visitors, (2) proposals for increased movement of fossil fuel products through the Gorge, and (3) the effects of climate change on Gorge natural resources (Cameli, Mogren, and Shinn 2014).

Finally, the CRGC staff offered anecdotal evidence that some Gorge residents beginning to ignore CRGC permitting regulations. This assertion requires further investigation. But if true, and if left unchecked, this practice could grow to undermine the legitimacy of the Commission and the purposes for which it was established (Cameli, Mogren, and Shinn 2014).

Complexity of the CRGC Legal and Operating Environment

The first thematic finding, which in many ways drives the others, is the complexity of the Commission's responsibilities. Interstate commissions operate at a complicated nexus of overlapping governmental jurisdictions, operational responsibilities, politics, and law. The CRGC is no exception (Cooper 2014; Cameli, Mogren, and Shinn 2014; Clarke and Evans 2014).

Despite a two-hundred-plus year history of interstate compacts and agreements between states, much of the body of law governing those compacts and agreements is still evolving. While there are well-established principles, there are many questions not yet clearly resolved. This legal complexity is more than a set of esoteric legal arguments; it is a variety of facts on the ground that shape what compact agencies do and how they operate. Moreover, the fact is that each compact has its own unique set of laws as each major interstate compact has its own statutory foundation. Further confounding CRGC legal issues is the fact that the Commission operates under the jurisdictions of six different state courts in Washington, two in Oregon, and as many as four federal courts (three district courts and the the 9th Circuit Court of Appeals). Each court has its own procedures, rules, staff, and judges with varying degrees of experience in adjudicating compact law (Cooper 2014).

In addition to the complexity of the law is the complexity of operating in a politically charged environment. The Columbia River Gorge Commission, the Tahoe Regional Planning Agency, and the Chesapeake Bay Commission face similar challenges in managing

development in multidimensional waterways that cross the jurisdictions of federal, state, and local government agencies (Clarke and Evans 2014). Operationally, the Scenic Area Act and Compact charge the Commission with operational responsibilities for planning, enacting policy, rule making, monitoring county activities, permitting, enforcement, responding to and initiating lawsuits, and administration as necessary to ensure compliance with the Act. Resourcing the Commission to carry out those operational functions is the responsibility of the two states, a responsibility often influenced by state political priorities and the lingering tensions from the debate over the Scenic Area's establishment (Cameli, Mogren, and Shinn 2014; Durbin 2013; Abbott, Adler, and Abbott 1997).

In carrying out the Commission's operational responsibilities, commissioners are expected to represent their respective constituencies and, concurrently, act as part of the Commission to create policy for the entire gorge community. As a consequence, commissioners often find themselves caught between organizational mandates, constituency expectations, and their own values. Although intentionally designed into the composition of the Commission, this factor adds to the complexity of achieving the Act's purposes within the political context of the gorge. Conflicts with the Commission result from the dramatic differences in values held by Scenic Area constituencies and the fact that commissioners often do not share a common interpretation of what the Scenic Area Act means and how it should be implemented (Cameli, Mogren, and Shinn 2014; Cooper 2014).

We conclude that operating successfully in an environment of such complexity requires a sustainable central core of expertise in the areas of law, planning, and intergovernmental relations. This capacity is needed to guide day-to-day operations, inform Gorge stakeholders, and assist in educating and training CRGC commissioners and staff.

The Columbia River Gorge Commission exists within a complex array of law, politics, and operational requirements. One may think of this as a complicated box of parts affecting everything the Commission does. The challenge of managing those parts would be hard enough if all or most of those parts were stable. They are not.

Dynamism within CRGC Law and the Operating Environment

The second thematic finding is how this complexity is exacerbated by the dynamic nature of the law, regional politics, and operational issues with which the Commission must contend. In effect, many of the parts in the box are moving of their own accord. Clarke and Evans (2014) found evidence of similar uncertainty in the TRPA and CBC operating environments. For the Commission, rulings on compact law in federal courts or the US Supreme Court on issues that affect provisions of the Scenic Area Act, or rulings in state courts on issues delegated to the states by the Act must be tracked and applied accordingly (Cooper 2014). Shifting local and state politics can and do affect the selection of commissioners, public perceptions of Commission actions, the degree of acceptance of those actions by Gorge communities and residents, and subsequent resourcing decisions by the state legislatures. Historically, the Commission has recognized the evolving nature of its mission and initiated action to address perceived changes. For example, in 2003, the Commission identified shortfalls in the Master Plan and developed a plan to work through them. In 2009, the Commission produced its *Vital Signs Indicator Project State of the Gorge 2009 Report* that identified criteria for tracking events in the Gorge and guiding planning decisions. The Commission also recognized a major increase in recreational visitation and the potential

impact of that increase on Gorge resources. In each of these examples, the Commission was unable to follow through due to resource limitations (Cameli, Mogren, and Shinn 2014). We conclude that the dynamic nature of the Commission's legal, political, and operational environment requires a built-in flexibility and resiliency to the Commission's staff structure and processes that allows it to anticipate such changes or otherwise react as they become known.

Intergovernmental Relations and Coalition Building

The third thematic finding is that achieving the purposes of the Scenic Area Act in the face of this complexity and dynamism requires building successful coalitions of the government agencies and other stakeholders whose interests intersect within the Scenic Area. The Scenic Area Act is a framework for governance within the Gorge, and good governance requires good relationships between participating parties. These relationships may be established formally through intergovernmental agreements¹ and informally through day-to-day interactions, groups of stakeholders convened to collaboratively address specific issues, neighborhood meetings, etc. Good relationships foster inclusiveness and transparency in decision making and can assist in mediating the meanings and values resident among Gorge residents. They also reduce transaction costs incurred through mistrust or misunderstanding. Whether formal or informal, building such coalitions requires capacity beyond legal and administrative staff.

Clarke and Evans (2014) found this an area in which the TRPA and CBC excel. We found this an area in which the CRGC struggles. Interviews with staff indicate that the Commission has not made regular use of formal agreements with state and local agencies. Such agreements are in practice the lifeblood of intergovernmental relations in most parts of the country, to include Oregon and Washington under other compacts and agreements to which they are party. Such agreements offer a degree of stability and predictability among participating units of government (Cooper 2014). In the case of the Gorge Commission, formal agreements with the state and federal agencies, tribal governments, and/or local governments may offer opportunities to reduce CRGC workload. Examples of potential opportunities include agreements for implementation of monitoring elements identified in the Vital Signs Indicator project, processing of Klickitat County permit applications, and elimination of the need for duplicate financial accounting systems as currently required by Oregon and Washington (Cameli, Mogren, and Shinn 2014).

In the introduction, we noted the variety of meanings and values assigned to the Gorge by residents and other stakeholders. Many residents view the Scenic Area Act as a negative intrusion on those meanings and values. The CRGC is in a position to promote the purposes of the Act as a unifying vision in which Gorge residents have a stake (Cameli, Mogren, and Shinn 2014, Cooper 2014). We conclude that the capacity to build and sustain both formal and informal relationships with Gorge stakeholders is essential to CRGC success. The politics of the Gorge, the cultures of the government agencies involved, and misunderstandings over the nature and requirements of the Scenic Area Act too often result in rocky interpersonal relationships marked by distrust or disinterest and that undermine

¹ Oregon terms such agreements as "Intergovernmental Agreements"; Washington terms them "Interlocal Agreements" (Cooper 2014).

legitimacy and operational efficiency. This makes the already difficult job faced by the Commission that much harder.

Communications, Outreach, and Education

The fourth thematic finding is that the complexity, dynamism, and need for constructive intergovernmental relationships requires a continuous effort in communications with and education of government, non-profit, and private entities that participate in Gorge-related activities (Cooper 2014; Cameli, Mogren, and Shinn 2014; Clarke and Evans 2014). Like our conclusions regarding intergovernmental relations and coalition building, this is an area in which the TRPA and CBC seem to excel. Both dedicate significant staff and effort to communicating with the public, state legislators, relevant leaders of state agencies, and other interested parties to keep them apprised of evolving events (Clarke and Evans 2014).

The legal staff is key to communications, coordination, and education in several important respects. Effective communications with all relevant parties is central to effective accomplishment of the Commission's mission under the Scenic Area Act and Compact. On the point about education for the community, businesses, and other governmental organizations, an important aspect of that work may not only avoid unnecessary, expensive, and divisive litigation, but it may contribute to enhancing the legitimacy of the commission and its work in the area and in the member states (Cooper 2014).

The education need is one of internal and external dimensions. There is an internal need to ensure the unique expertise of law, planning, and intergovernmental relations required within the Commission staff is instilled and sustained in new commissioners and staff members (Cooper 2014; Cameli, Mogren, and Shinn 2014). The need for ongoing education is especially acute in matters of law. One of the roles of the CRGC legal practice is not just to litigate or to negotiate in the shadow of litigation, but to educate. Cooper (2014) illustrates how interstate compact law is a developing field that is unfamiliar to many in the legal profession, let alone for many state and local officials. In addition, because each compact has its own unique compact law within the larger national body of compact law, there is an ongoing need to educate commissioners, CRGC staff, state and local government officials, nongovernmental organizations, citizens, and businesses about the legal character of the Commission and the body of law that affects so many aspects of their lives. The scope of the educational task encompasses legal practitioners in both states, to include judges. Although many of these attorneys and judges understand land use law in their respective states, many are not familiar with the peculiar characteristics of compact law or of the specific law of the Compact (Cooper 2014).

We conclude that establishing a communications, outreach, and education capacity within the Commission could greatly improve the Commission's functionality and legitimacy. It would also serve to improve relationships with the state legislatures; federal, state, and local government agencies; the Indian tribes; and Gorge residents.

Organizational Capacity

The fifth thematic finding is a chronic shortfall in the CRGC's organizational capacity. Cameli, Mogren, and Shinn (2014) used an inductive approach to assess the Commission's overall organizational capacity, examining the functions the Commission is expected to perform and the resources available to do so. Cooper (2014) focused on the capacity needs of the Commission's legal practice in the context of routine workload and the complexities of compact law. Clarke and Evans (2014) examined the capacity of the TRPA and CBC in

comparison to the CRGC. Their report examined TRPA, CBC, and CRGC funding sufficiency and environmental, economic, coalition building, and management effectiveness as portrayed in media reports and assessed them as “succeeding,” “striving,” or “beset” by problems. In relative terms, the CRGC was found to be portrayed in the media as more beset by problems in the areas of environmental quality, economic vitality, funding and coalition building than either the TRPA or CBC (Clarke and Evans, 2014). In sum, all three foundational reports found a significant shortfall in capacity, a shortfall we primarily attribute to insufficient resources (Cameli, Mogren, and Shinn 2014).

In addition to their review of media representations, Clarke and Evans (2014) identified the staff and budget resources available to the TRPA and CBC. Their current staffing levels are compared to the current CRGC staff level in the table at Exhibit 2. Originally, we envisioned this comparison as yielding insights to help inform a staffing recommendation for the Columbia River Gorge Commission. However, the usefulness of such a comparison proved limited due to differences in roles of staff and commission members and the different purposes for which each was created.²

For example, many of the Commissioners of the CBC are sitting legislators and government officials (Clarke and Evans 2014), a situation prohibited for the Gorge Commission by provisions of the Scenic Area Act. These officials perform many staff-like functions carried out by the CRGC staff in the course of their normal duties. The CBC staff, on the other hand, are comprised of an executive director and administrative assistant and three “state directors” who coordinate and lobby for CBC initiatives within their respective state (Clarke and Evans 2014). Again, this is not analogous to the CRGC situation. The large staff of the TRPA is made possible due to the diverse and robust array of funding sources available to TRPA (Clarke and Evans 2014), a circumstance also not available to the CRGC. The upshot is that the envisioned direct staff comparisons were less useful than originally hoped for determining CRGC staffing needs.

Instead, we relied on an analysis of the CRGC to determine staffing adequacy. We identified the functions the Commission is required to perform to assist in estimating necessary capacity. Cooper (2014) focused on the legal functions while Cameli, Mogren, and Shinn (2014) focused on operational and administrative functions. To state the obvious, every organization requires sufficient organizational capacity commensurate with the demands of their responsibilities. For the Columbia River Gorge Commission, we conclude that this means a sustainable core of expertise in the unique elements of law, planning, and intergovernmental relations as applicable to the Scenic Area and a robust and competent staff to carry out the Commission’s day-to-day work (Cooper 2014; Cameli, Mogren, and Shinn 2014).

Cameli, Mogren, and Shinn (2014) identified thirty-five provisions in the Scenic Area Act, thirteen in the Compact, and eight in the Commission’s bylaws mandating functions that require staff effort (see Appendix 1). In addition are functions not specified in the Act, Compact, or bylaws but identified by the Commission as essential to meeting the purposes of the Act. To determine workload, we relied on assessments completed by the staff and numerous follow-on discussions to determine the hours each function requires to successfully accomplish it (Cameli, Mogren, and Shinn 2014).

² Consistent with Cooper’s (2014) argument that each interstate compact or agreement is unique.

Exhibit 2: Comparison of Current CRGC, TRPA, and CBC Staff Levels

Current Staffing Levels (in FTE)			
Category	CRGC	TRPA	CBC
EXECUTIVE MANAGEMENT (Exec Director)	1.0	1.0	1.0
ADMINISTRATIVE SUPPORT	1.0	3.0	1.0
PLANNING AND COMPLIANCE	2.6	24.0	
LEGAL	1.0	2.0	
OPERATIONS MANAGEMENT	*	1.0	
PUBLIC EDUCATION AND OUTREACH	*		
INTERGOVERNMENTAL COORDINATION	*	3.0	3.0
FINANCIAL AND ADMIN SUPPORT	*	5.0	
ENVIRONMENTAL IMPROVEMENT		7.0	
RESEARCH AND ANALYSIS	*	11.0	
* No dedicated staff; functions performed by another member of the staff as an additional duty			
TOTALS:	Staff: 5.6 Commission: 13	Staff: 57 Gov. Board: 14	Staff: 5 Commission: 21

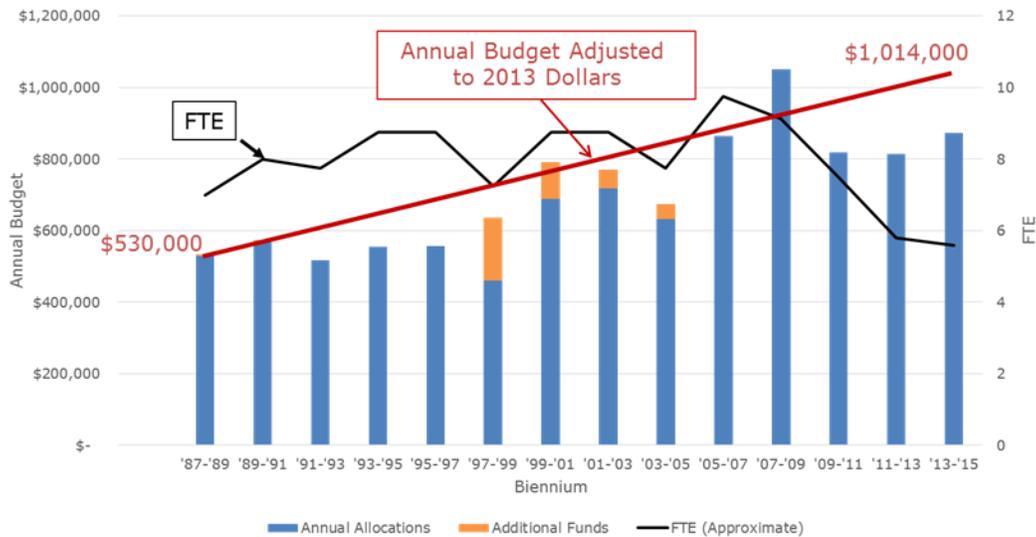
Data sources: The Columbia River Gorge Commission, the Tahoe Regional Planning Agency, the Chesapeake Bay Commission, Clarke and Evans (2014), and Cameli, Mogren, and Shinn (2014).

Having determined the workload, the next step was to determine necessary staff and funding levels. Cameli, Mogren, and Shinn (2014) began by examining historic funding and staff levels to determine the degree to which the mandated and essential additional functions have been met over time. Exhibit 3 presents the history of Commission resourcing from biennium 1987-89 through 2013-2015, displayed as annual budget and staff numbers.³ For the budget data, we show both actual dollars (in the bars) and inflation adjusted levels (shown by the red line). Exhibit 3 illustrates that, if the of \$530,000 annual budget provided in 1987 accurately estimated the Commission’s resource needs, then, in inflation-adjusted terms, the Commission has been underfunded for most of the years since. Exhibit 3 also shows that, since 1988, the CRGC staffing, as calculated in full time equivalents (FTE) ranged from a 5.6 in the most recent biennium to 9.75 in biennium 2005-2007. As with the funding numbers, current FTE levels are below those estimated as being needed at the Commission’s inception. Furthermore, the staff often experienced turmoil within any given biennium as positions were added or deleted consistent with available funding, Commission priorities, and decisions by Executive Directors (Cameli, Mogren, and Shinn 2014).

³ Note that, in addition to state funding, the Commission received additional funds through grants from non-state entities between 1997 and 2005. These grants ranged from \$1,000 to \$175,000 per year.

Exhibit 3: Historic Resourcing of the Columbia River Gorge Commission

Historic Resourcing



Cameli, Mogren, and Shinn (2014) then examined the degree to which the Commission was able to meet its required functions under these historic resource levels. While there have been significant successes, in many cases the Commission has not carried out these functions or done so in an incomplete manner. Examples include the incomplete nature of the original and most recent Management Plan, delays in revising the most recent plan, poor relationships with other government agencies, delays in implementing the Vital Signs Indicator Project, delays in resolving urban area boundary issues, backlogs in permit processing, and a lack of monitoring. There are other examples as well (see Cameli, Mogren, and Shinn 2014).

Cameli, Mogren, and Shinn (2014) then queried, through structured interviews, the opinions of commissioners and staff as to desired resource levels. Whereas the staff and almost all of the commissioners agree that additional resources are necessary, there was wide divergence between the levels of increase viewed as needed. These differences are illustrated in Exhibits 4 and 5. Exhibit 4 presents the interview responses for annual funding levels. It also presents a comparison to those responses with the inflation-adjusted 1987 funding level and the annual amount budgeted for the current biennium. Responses received from eleven of the thirteen commissioners ranged from \$900,000 (roughly equivalent to the current funding level) to \$4.5 million. As a matter of method, we discarded the highest and lowest responses. This left nine data points ranging from \$1.0 million to \$1.7 million that averaged to \$1.6 million per year (Cameli, Mogren, and Shinn 2014).

Responses to the same question from five staff members ranged from \$2.5 million (two responses) to \$4.5 million (again, two responses) per year. Because we received two responses each at the high and low end, dropping one of each still left the remaining three responses ranging between \$2.5 million and \$4.5 million. Those three responses averaged to \$3.3 million per year, about double the average amount recommended by the commissioners.

Exhibit 4: Commission and Staff Suggested Funding Levels

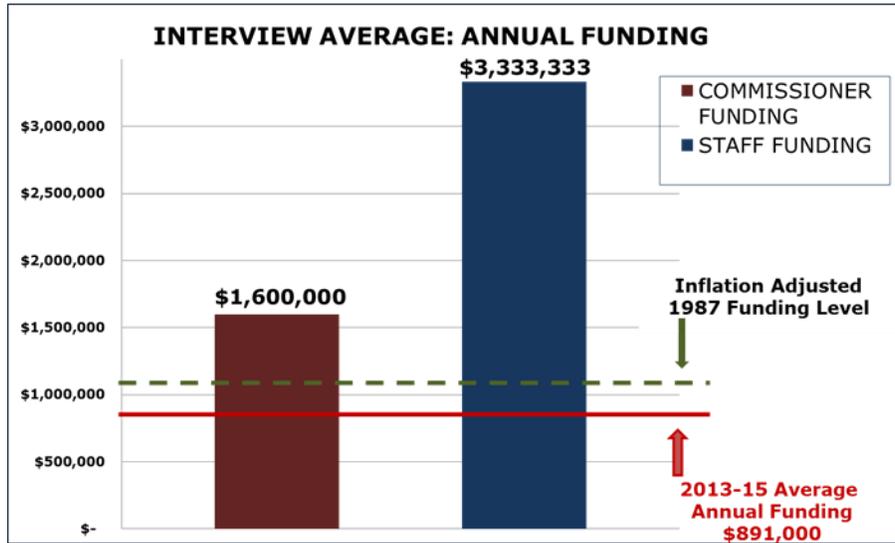
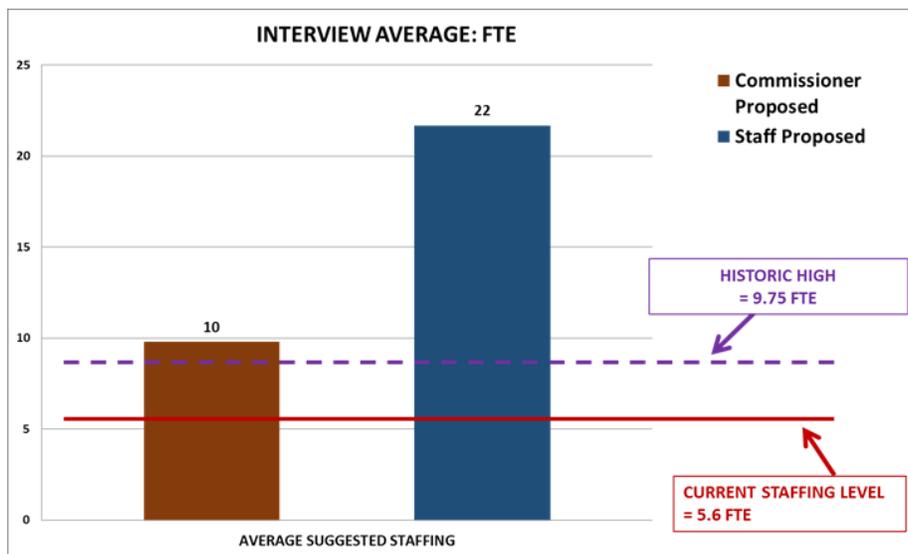


Exhibit 5 presents commissioner and staff suggestions regarding appropriate staffing levels as compared to the current staffing level (5.6 FTE) and the high of 9.75 FTE experienced during the 2005 – 2007 biennium (previously illustrated in Exhibit 3). The responses from eleven Commissioners ranged from 7 to 20 FTE. Following our practice of dropping the outliers, the remaining nine responses averaged from 8 to 12 FTE and averaged to 10 FTE per year. Consistent with the trend observed with funding, staff opinions on needed staffing were generally higher than the suggestions of the commissioners. The five staff member responses ranged from 14 to 35 FTE. Dropping the outliers left three responses ranging between 18 and 28 FTE, averaging to 22 FTE per year (Cameli, Mogren, and Shinn 2014).

Exhibit 5: Commission and Staff Suggested Staffing Levels



Based on the assessment of legal needs by Cooper (2014) and the organizational assessment by Cameli, Mogren, and Shinn (2014), we conclude that the states' resourcing of the Commission is not, and never has been, sufficient to establish and sustain the organizational capacity necessary to achieve the purposes for which the Commission was established. While there was almost universal agreement among commissioners and staff that additional staff resources are necessary, there were wide discrepancies between the staff and commissioners as to what the appropriate levels should be.

To summarize, the Columbia River Gorge Commission operates in an extremely complex legal and operational environment. It makes planning and land use decisions amidst a swirling mix of values, meanings, and priorities among Gorge residents and stakeholders. That complexity is exacerbated by the dynamic nature of the legal, operational, and political context within which the CRGC operates. Carrying out the functions of any interstate commission within this complex and dynamic environment requires constructive relationships between participating governments and stakeholders. Building and sustaining those relationships, in turn, requires a robust capacity for communications, outreach, and education. The Commission does not have and never has had sufficient resources to meet these needs and carry out the functional requirements for which it was established (Cameli, Mogren, and Shinn 2014, Cooper 2014, Clarke and Evans 2014). Moreover, the Commission also requires a capacity for flexibility and resiliency to adapt to new, emerging issues that affect the purposes of the Scenic Area Act but were not envisioned at the time of the Act's passage.

Emerging Issues

Interviews with the CRGC staff revealed three emerging issues of which the Commission is aware but has not yet addressed. The first is the increasing number of recreational visitors to the Gorge. Unfortunately, good data on gorge visits is very limited since no single entity tracks visitation to the Scenic Area.⁴ Data obtained by Cameli, Mogren, and Shinn (2014) from the US Forest Service indicated an estimated 2 million annual visitors to Forest Service properties, based parking permit sales. Similar data obtained from the Oregon Department of State Parks estimated about 3.5 million visits to Oregon State-owned properties in 2013. There is little data available for other forms of visitation, say, for example, the number of sail boarders using city-owned beaches in Hood River. Based on the information available, Cameli, Mogren, and Shinn (2014) estimate that visits to the Gorge number between 3.5 – 5.0 million annually.⁵ The Commission recognizes this as a significant issue to be addressed either in the next Management Plan revision or as a separate planning document.

A second issue is the effect of climate change. The Gorge, like the rest of the Pacific Northwest, is experiencing forest fires of ever greater frequency, increased insect infestations, and changes in rainfall patterns. These phenomena are related, in that large stands of trees killed by insects are that much more vulnerable to fire – especially during dry periods. Beyond the biophysical impacts are likely impacts to demographics due to in-migration to the Northwest as people flee extreme weather conditions in other parts of the country. This influx of people to the Northwest will likely amplify the recreation issues previously discussed as well as add pressure for development in the designated urban areas

⁴ The Columbia River Gorge Commission does not collect and monitor this sort of data.

⁵ We assume that those visiting federal forests over the course of the year also visit state forests. We found no basis, however, to determine how much, if any, such overlap occurs.

of the Gorge. Staff is aware of the need to address climate change in their next Management Plan revision but have not yet determined how best to do so (Cameli, Mogren, and Shinn 2014).

The third known issue involves proposals for moving greater volumes of oil, liquefied natural gas, and coal through the Gorge by barge, rail, and truck. Recent years have seen efforts to build liquefied natural gas terminals along the Oregon and Washington coasts and increase coal shipments to Northwest ports from the Midwest. Rail shipments of shale oil from North Dakota to ports on the lower Columbia River are also increasing. Accidental spills of oil products have occurred in the past, and state, federal, and local authorities are prepared to respond as they occur. But with the increased volume of traffic comes increased risk. The Commission recognizes the need to address this issue, but is unclear as to the scope of its authorities or how best to proceed (Cameli, Mogren, and Shinn 2014).

None of these issues were envisioned when the Commission was established in 1986. Each of these issues is qualitatively different from the work the Commission traditionally performed for natural resource protection and economic development. We concluded that the unpredictability of when issues such as these may emerge requires that the CRGC staff be designed with a capacity for flexibility in order to react to unforeseen events and circumstances.

Issues Concerning CRGC Legitimacy

The Commission faces a potential test of legitimacy within the Gorge. CRGC staff members reported incidences where Gorge residents, in submitting permit applications, complained of others that were ignoring permit requirements altogether. This is allegedly due to lingering resentment from the history of the Scenic Area Act and growing frustration with the lag time and complexity of permit processing. We stress that it is not clear as to how often this occurs or whether this is an issue unique to the Gorge in comparison with other parts of the two states (Cameli, Mogren, and Shinn 2014).

Additionally, state and federal agencies with responsibilities in the Gorge do not understand or accept the Commission's role and responsibilities and often do not consult with the Commission on issues where their jurisdictions overlap (Cameli, Mogren, and Shinn 2014).

Cooper (2014) states, "the Commission is a public law body with public law authority and public law responsibility.... At a day-to-day level, public law authorizes, drives, constrains, and holds the Commission accountable. It also supports the legitimacy of the Commission and its work" (p. 3). If, due to continued resource constraints, the CRGC comes to be seen as simply a problem that gets in the way of doing the things that residents, businesses, or communities seek to accomplish, then most interactions are likely to begin from a negative starting point, with some potentially avoiding interaction with the Commission entirely (Cooper 2014).

We emphasize again that this issue is anecdotal in nature and warrants further investigation. More research is required to determine the degree to which it is occurring and, if so, the degree to which it also occurs in other regions of the two states. But if some residents and government agency staff members view the Act and the Commission's work and authorities as no longer legitimate or relevant, and if they come to believe the Commission is impotent to enforce its rules, then the Commission's ability to carry out the purposes of the Act will be greatly diminished.

SECTION 4: SUMMARY OF RECOMMENDATIONS

This section synthesizes the report recommendations based on the thematic findings discussed above and as derived from the three foundational reports. We organize the presentation of those cross-cutting recommendations under the headings “organizational capacity,” “intergovernmental relations and coalition building,” and “communications, outreach, and education.” Additionally, we include those recommendations unique to each report under the subsection entitled “Additional Recommendations.” Discussion on these additional recommendations may be found in the foundational report from which they are drawn.

Organizational Capacity

➤ *Recommendation – Staff Capacity:*

Based on the findings in Cameli, Mogren, and Shinn (2014) and Cooper (2014), we recommend that the Commission:

- Continue the team building activities initiated in 2013 to foster a common understanding of Commission authorities and responsibilities and maintain the Commission’s camaraderie (Cameli, Mogren, and Shinn 2014).
- Come to agreement on a governance model and have that model written into the Commission’s bylaws. The governance model would define the role of the executive director, the relationship of the executive director to the commissioners, and the relationship of the commissioners with the staff (Cameli, Mogren, and Shinn 2014).
- Formalize the agreement reached regarding a governance model by codifying it through revisions to the Commission bylaws or some other form of documentation (Cameli, Mogren, and Shinn 2014).
- Ensure the legal practice is understood as a critical core function of the Commission and its staff (Cooper 2014).
- Ensure staff legal capacity adequate to address the full range of legal practice obligations of the commission and avoid reliance on state attorneys general for legal work (Cooper 2014) (see Recommendation – Staffing below).
- Develop further the discussion of the special legal issues associated with the tribal governments in the Gorge as part of the ongoing considerations of interstate compact law and Gorge Compact law in a manner that both assists commissioners and the tribal governments (Cooper 2014).

➤ *Recommendation – Staffing:*

Based on the findings and discussion found in Cameli, Mogren, Shinn (2014), Cooper (2014), and Clarke and Evans (2014) as discussed above, we recommend that:

- A baseline staffing level of 16.9 FTE be established to meet the Commission’s mandated functions (Cameli, Mogren, and Shinn 2014).
- An additional 8.5 FTE be allocated to meet the current needs of essential additional functions (Cameli, Mogren, and Shinn 2014). The number of FTE

needed for these functions will likely fluctuate in the future as projects are completed and new requirements identified.

- Any staff increases be phased in gradually over time. Although the need for additional staff resources is acute and immediate, attempting to hire all at once will likely cause more problems than it will solve. New staff to any organization needs to be trained and socialized into the organization’s mission and culture. Hiring should therefore be at a rate the current staff can absorb without serious loss of efficiency to ongoing operations (Cameli, Mogren, and Shinn 2014).
- Include adequate staffing for the functions of intergovernmental cooperation, public outreach and communications, and legal support (Clarke and Evans 2014, Cooper 2014, Cameli, Mogren, and Shinn 2014).

Additional detail may be found in the three foundational reports. Cameli, Mogren, and Shinn (2014) organized the Commission’s functions into ten functional categories. Exhibit 7 presents our proposed distribution of these staff increases under each category.

Exhibit 6: Recommended Annual Staffing

Functions and Estimated Staffing				
Function Category	Current Staff Effort¹	Baseline Staffing for Mandated Functions	Staffing for Essential Additional Functions ²	Total
Planning	1.00	5.95	2.50	8.45
Legal	1.00	1.85	.75	2.6
Intergovernmental Coordination	.05	.50	.50	1.0
Financial Management / Accounting	.45	.60	.40	1.0
Operations Management	.30	.95	.05	1.0
Information Analysis	.40	1.80	2.45	4.25
Executive Management	1.05	1.50	0	1.50
Public Outreach and Communications	.04	1.00	.50	1.50
Information Technology	.26	.40	.35	.75
Office Administration and Management	1.00	2.39	1.01	3.40
TOTAL (Totals rounded to nearest tenth)	5.6	16.9	8.5	25.5

1. Reflects effort currently dedicated to function category and not staff positions
 2. May be full time, temporary, intergovernmental agreement, contract, or other

Staffing levels were determined by entering the hours estimated by the staff to perform Commission functions into an excel spreadsheet. The hours were then summed and converted to FTE for each category, calculations which often carried to the fourth decimal point.⁶ We compared the results with historic levels and the interview results (see Exhibits 3, 4, and 5). We emphasize that our recommendation is based on our judgment after consideration of all sources (see Cameli, Mogren, and Shinn 2014 for further discussion), while the discussion in Cooper (2014) informed the recommendation for legal staff. While we have high confidence in the data used for our estimates, we recognize that this method

⁶ One FTE equates to 2,080 hours per year, calculated at 40 hours per week over 52 weeks.

raises questions as to the credibility of a staffing recommendation summed to a tenth of an FTE, or even to a full FTE. Rather than attempting to determine an appropriate rounding of these numbers among ourselves, we decided to limit our presentation solely to the results of our findings and method.

Exhibit 7 consists of four columns. The first column lists the ten function categories identified in Cameli, Mogren, and Shinn (2014). The second column shows the current staff effort being expended on each category. The third and fourth columns represents our best judgment as to the baseline staffing levels required to meet mandated and essential additional functions, respectively. We estimate that 16.9 FTE, distributed between function categories as shown, are needed to meet the mandated functions of the Commission with an additional 8.5 FTE needed to meet additional essential functions.

This 16.9 FTE includes staffing needed to process Klickitat County development permits and the regulatory requirements of the two states, together estimated at 1.8 FTE. In other words, the total baseline staff number could be reduced to 15.1 FTE if Klickitat County were to adopt ordinances consistent with the Act and if the states of Oregon and Washington could agree to a common set of record and accounting rules for purposes of Commission business.

We also estimate that an additional 8.5 FTE are needed to meet the Commission's current essential additional functions.⁷ Unlike the staffing needed for mandated functions, this number will likely change over time. Not all of these FTE need be filled by direct hires. Some could be met through temporary hires, contractors, intergovernmental agreements, or other arrangements for the duration of the need.

➤ *Recommendation – Funding:*

Based on the findings and discussion found in Cameli, Mogren, Shinn (2014), Cooper (2014), and Clarke and Evans (2014) as discussed above, we recommend that:

- The Commission be funded at \$2.5 million per year (\$5 million total) to support baseline mandated functions, indexed for inflation.
- Funding of an additional \$1.0 million per year (\$2 million total) be provided to support the Commission's essential additional functions. As with the FTE for essential additional functions, the funding needs will vary and should be adjusted over time accordingly.
- Increases in funding be introduced gradually over time, commensurate with the staff increases recommended above.

The authors estimate that \$2.5 million per year, indexed in the future for inflation, is necessary to meet the mandated functions of the Act, Compact, and bylaws. We estimate an additional \$1 million per year is needed to fund essential additional functions, although this will likely fluctuate over time as certain functions are completed and new ones adopted. These funding recommendations are inclusive of all Commission costs. They include salary and benefits, goods and other services, professional contracts, travel, capital outlays, and other Commission expenses.

⁷ The apparent discrepancy in the sum of baseline FTE and FTE needed for additional essential functions is due to rounding.

Intergovernmental Relations and Coalition Building

➤ *Recommendations*

Based on the findings and conclusions of Cooper (2014), Cameli, Mogren, and Shinn (2014), and Clarke and Evans (2014), we recommend that the Commission:

- Develop a “culture of collaboration” within the CRGC staff (Clarke and Evans 2014). Doing so will require the capacity and will to reach out and build working partnerships with federal, state, and tribal agencies in the Gorge, local community leaders, and key stakeholder groups. It will require effort beyond the current practice of monthly public meetings. It will also require additional staff resources dedicated to maintaining these relationships once established (see recommendations for Organizational Capacity, above).
- Build stakeholders’ confidence in the agencies’ internal decision-making by adopting practices to maximize transparency. By sharing the data and science that inform their analyses, TRPA and CBC have been able to reshape public perspectives of shared interests and enhance the organizations’ legitimacy (Clarke and Evans 2014).
- Develop an ongoing channel of communication on legal issues associated with the federal participant in the Gorge and other federal entities operating in an around the Scenic Area as part of ongoing considerations of interstate compact law and Gorge Compact law to assist the Commission and also to enhance the effectiveness of the federal agencies in legal decision-making and the management of important policies (Cooper 2014).
- Consider ways that legal capabilities can enhance collaborative relationships with communities in the Gorge and in the two states (Cooper 2014).

Communications, Education, and Public Outreach

Recommendations

Based on the findings and conclusions of Cooper (2014), Clarke and Evans (2014), and Cameli, Mogren, and Shinn (2014), we recommend that the Commission:

- Maintain sufficient staff capacity to ensure continuous learning on and influence in the shaping of interstate compact law (Cooper 2014).
- Have staff brief the Commission annually on both the tactical and strategic legal issues that counsel considers important for the Commission to influence through litigation priorities or amicus participation (Cooper 2014).
- Recognize education as a central element of Commission legal staff roles (Cooper 2014).

Additional Recommendations

Additional recommendations from the legal assessment (Cooper 2014)

1. Develop an ongoing channel of communication on legal issues associated with the federal participant in the Gorge Commission and other federal entities operating in an around the Scenic Area as part of ongoing considerations of interstate compact law and Gorge Compact law. Doing so will assist the Commission and

- enhance the effectiveness of the federal agencies in legal decision-making and the management of important policies.
2. Ensure active participation in professional associations that have a focus on interstate compact law such the ABA and National Center for Interstate Compacts of the Council of State Governments.
 3. Build effective intern/extern relationships with regional law programs to ensure training of a next generation of public sector attorneys able to practice and who can be resources to the commission either as employees or outside counsel where needed.

Additional recommendations from the comparative assessment (Clarke and Evans 2014)

There is one additional “best practice” derived from the review of the Tahoe Regional Planning Agency and the Chesapeake Bay Commission (Clarke and Evans 2014) that may be applicable. TRPA and CBC give attention to setting overall priorities and also specific plans. They acknowledge that they cannot address all concerns, so they set selective long-term priorities for policy change. They have explicit criteria for identifying the larger objectives that they pursue. The agencies select their priorities based on both importance and feasibility. Yet these agencies also develop concrete, nitty-gritty plans for pursuing their objectives. TRPA and CBC pinpoint particular actions that can serve bigger visions.

SECTION 5: A CROSS ROAD FOR THE COLUMBIA RIVER GORGE COMMISSION

The states of Oregon and Washington and the Gorge Commission share responsibility for preserving a place with special meaning to its residents and the region. The Commission's responsibility is to carry out the functions necessary to meet the purposes of protecting and enhancing the Gorge's resources while encouraging growth and allowing development consistent with resource preservation. The states' responsibility is to provide the Commission with the resources to do so.

Historically, the Commission has not been provided the resources required. This is evident in the incomplete nature of management plans, inability to follow through on important initiatives, back log in processing development applications, and delays in addressing important issues lingering since the Act's passage, such as clarifying urban area boundaries (Cameli, Mogren, and Shinn 2014). The Commission requires sufficient capacity to plan, implement, monitor, and enforce land use decisions as defined in the Act. It also requires the capacity to build formal and informal partnerships and coalitions with government agencies and stakeholders, reach out to and inform the public, and educate its commissioners and staff. It also needs flexibility to respond to emerging issues not envisioned at the time of the Act's passage (Cooper 2014, Cameli, Mogren, and Shinn 2014, Clarke and Evans 2014).

This report has focused on needed improvements. We should note that the Commission currently benefits from a very dedicated and professional staff. Although not of a size equal to the scope of tasks they are asked to perform, they work extremely well together and accomplish more than their numbers suggest possible (Cooper 2014, Cameli, Mogren, and Shinn 2014).

Moreover, throughout our interviews with we noted a common sense of collegiality and a willingness to acknowledge and respect the diversity of opinions among commissioners. The efforts the commissioners have made to obtain formal training in collaborative communication and leadership no doubt assisted in this and may help the Commission create new ways of reaching consensus on issues that have traditionally been barriers. The general sense among the 13 commissioners is that dialogue has reached new levels of respectful interaction and openness (Cameli, Mogren, and Shinn 2014).

However, despite this cooperative atmosphere, we also note a growing exasperation among staff members due to working with an ambitious mandate, a frustrated public, extremely limited resources and, at times, unnerving political pressure. While staff members routinely perform work outside of job classifications to cover essential functions, their patience with doing so is beginning to wear thin (Cameli, Mogren, and Shinn 2014).

In meeting the purposes of the Act, the Commission is faced with more than the technicalities of law, planning, and plan implementation. It also faces the need to mediate the myriad values in play within the Gorge. Assessing what those values may be and analyzing how they affect the Commission's organizational capacity is outside the scope of this effort and requires additional work. Regardless of what that effect may be, we recommend immediate steps be taken to begin to address the capacity shortfalls identified in this project.

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The authors considered commissioner and staff input within the totality of all information collected and reviewed. We applied our own collective best judgment in determining the findings, conclusions, and recommendations. The material presented herein is therefore the responsibility of the authors alone and does not necessarily reflect the positions of the Columbia River Gorge Commission, the states, or the Center for Public Service.

Appendix 1: Mandated Functions from the Scenic Area Act, Compact, and Bylaws

Mandates of the Scenic Area Act impacting ongoing Commission workloads

1) §544c, Section 5:

- a. States will enter into a compact and create the CRG commission
 - i. Commission will establish regulations relating to admin procedures, making of contracts, conflicts of interest, financial disclosures consistent with the more restrictive statutory provisions of either state (b)
 - ii. Federal agencies are authorized to provide Commission with technical assistance on a reimbursable bases (c)
 - iii. Secretary is authorized to provide assistance on a non-reimbursable basis (c)
 - iv. The Commission shall establish volunteer technical and advisory committees (d)

2) §544d, Section 6:

- a. Scenic Area Management Plan
 - i. Establish Resource inventory (a(1))
 - ii. Establish Economic Opportunity Study (a(2))
 - iii. Recreational Assessment (a(3))
 1. Interpretive center in Oregon
 2. Convention center in Washington
 3. Identify areas for public use facilities for recreational opportunities
 4. Identify areas for increase access to the Columbia River
 - iv. Land use designations (b)
 1. Designate agricultural, timber, open spaces, commercial areas, residential development, urban areas
- b. Establishment of Management Plan
 - i. Based on results of resource inventories (c(1))
 - ii. Include land use designations (c(2))
 - iii. Incorporate management plan for federal properties (c(4))
 - iv. Include guidelines for land-use ordinances for Counties (c(5))
 - v. Shall not apply to Urban areas (c(5B))
 - vi. Standards for Management Plan (d)
 1. Protect and enhance – agricultural lands, forest lands, open spaces, public and private recreation (d(1-4))

- 2. Prohibit major development in SMA's (d(5))
 - 3. Prohibit Industrial uses outside of Urban areas (d(6))
 - 4. Require that commercial and residential dev. and mineral exploration outside of urban areas are consistent with 1st purpose of the Act (d(7-9))
 - vii. Conduct public hearings and solicit comments prior to adoption of Management Plan and land use ordinances (e)
 - viii. Notify Secretary, states, local governments and Tribes of all proposed major development actions and residential dev. in Scenic Area (e)
 - ix. Plan review/revisions every 5-10 years (g)
 - x. Amendment of Plan as needed (h)
- 3) §544e, Section 7
- a. Administration of Scenic Area
 - i. Administer the non-federal lands in accordance with Management Plan (a)
 - ii. Adopt land use ordinances
 - 1. Review and approval of development review by other counties (b)
 - 2. If a county fails to adopt the Plan the Commission will create and administer land use regulations for given county (c)
- 4) §544f, Section 8
- a. Administration of SMA's
 - i. Coordinate with the US Forest Service for administration of SMA's (h – n)
- 5) §544i, Section 11
- a. Economic Development
 - i. Review and approve any proposals for economic development for consistency with Plan (c(1))
- 6) §544m, Section 15
- a. Enforcement –
 - i. Monitor activities in counties and take actions as it determines necessary Hear and Manage appeals for land-use decisions (a(1))
 - ii. Assess civil penalties for non-compliant land-uses (a(3))
 - iii. Address civil suits as they arise (b(2))

Mandates of the Bi-State Compact impacting ongoing Commission workloads:

- 1) Article I
 - a. Commission Establishment/Function
 - i. Sue and be sued (a(1))
 - ii. Disapprove land-use Ordinances (a(2))
 - iii. Power to enact land use ordinance in absence of county ordinance (a(3))
 - iv. Review all major developments (a(4))
 - v. Hire/fire/pay staff (b) & (c)
 - vi. Right to contract (d)
 - vii. Establish and maintain a place of business (f)
 - viii. Adopt by-laws, rules and regulations (g)
- 2) Article IV
 - i. Compensation of commissioners (a)
 - ii. Prepare, lobby for, oversee budget requests to the two states (b)
 - iii. Equal budget expenditures –tracking and report (d) & (e)
 - iv. Accounting for annual auditing (e)
 - v. Maintaining Public records (f)

By-laws impacting ongoing Commission workloads:

- 1) Article II, Section 1
 - a. Hold regular meetings
- 2) Article IV, Section 5
 - a. Executive Director responsibilities:
 - i. Record meeting minutes for public record
 - ii. On-going management of staff/budget/work plans
 - iii. On-going communication with the Public
 - iv. Periodic reporting to Commission
 - v. Enter into contracts
 - vi. Address litigation and report to Commission
 - vii. Other duties as assigned

Appendix 2: The Peer Review

Drafts of each of the three base reports were externally reviewed. All reviewers are recognized experts in the fields of interstate compact law, network governance, intergovernmental relations, natural resource management and policy, or the history of the Columbia River Gorge Commission. The reviewers were chosen from a variety of academic institutions.

The draft legal assessment (Cooper 2014) and organizational assessment (Cameli, Mogren, and Shinn 2014) were each critiqued by three reviewers; the draft comparative assessment (Clarke and Evans 2014) by two. We provided all reviewers a written set of instructions, included below. Review comments were sent to the author(s) of each report. The author(s) carefully considered each comment made and revised their report accordingly. The report authors made the decisions of how best to address each comment made. Consequently, responsibility for the content of the final reports rests solely with the authors. Copies of all review comments received are on file with the Mark O. Hatfield School of Government Center for Public Service.

About the Reviewers

Sy Adler, Ph.D. Dr. Adler is a professor of urban studies and planning in the College of Urban and Public Affairs, Portland State University. He has been teaching Urban Studies and Planning at Portland State University since 1982. He coauthored *Planning a New West: The Columbia River Gorge National Scenic Area* (Oregon State University Press, 1997) and a follow-up analysis, "The Columbia River Gorge National Scenic Area – Regional Planning for the New West," a chapter in Carleton Montgomery, ed., *Regional Planning for a Sustainable America*, (Rutgers University Press, 2011). Dr. Adler reviewed both the organization (Cameli, Mogren, and Shinn 2014) and comparative (Clarke and Evans 2014) assessment reports.

Christopher J. Koliba, Ph.D. Dr. Koliba is the Director of the Master of Public Administration Program and a Professor in the Community Development and Applied Economics Department at the University of Vermont. He earned a Ph.D. and an MPA from Syracuse University's Maxwell School of Citizenship and Public Affairs. His current research focus includes development of complex adaptive systems models of land use, watershed management, food systems, transportation planning, and smart grid energy networks. He has published in multiple professional journals and is coauthor of *Governance Networks in Public Administration and Public Policy* (CRC Press, 2011). He is chair of the Complexity and Network Studies section of the American Society of Public Administration. He serves as a managing editor of *Complexity, Governance and Networks*, and on the editorial boards of the *Journal of Public Affairs Education*, and the *International Journal of Administrative Sciences*. Dr. Koliba reviewed the organization assessment report (Cameli, Mogren, and Shinn 2014).

John Marshall, J.D. Attorney John Marshall is general counsel to and serves on the governing board of the Tahoe Regional Planning Agency. TRPA was created to oversee development at Lake Tahoe upon ratification of a bi-state compact by Congress in 1969. He is, as he puts it, a "1989 graduate of a decent law school, with decent grades." Mr. Marshall has been litigating natural resources and land use cases since then as a member of private law firms, the United States Department of Justice, a solo practitioner and as General Counsel to the Tahoe Regional Planning Agency. He reviewed the legal assessment report (Cooper 2014).

Richard L. Masters, J.D. Attorney Rick Masters is Special Counsel to the National Center for Interstate Compacts, which is affiliated with the Council of State Governments, providing legal guidance concerning the law and use of interstate compacts, including application and enforcement. Rick is a recognized subject matter expert in the field of interstate compacts and provides legal advice to several other compact governing boards and agencies. He has testified frequently before state legislative committees concerning a wide variety of compact legislation and has also provided testimony to the U.S. Congress concerning compact consent legislation and related interstate compact legal issues. Additionally, Rick has been involved in extensive research and writing in the field of interstate compacts and has published a wide variety of law review articles, bench books used by state court judges, and other publications concerning the law and use of interstate compacts. He is co-author of the most comprehensive compilation of legal authorities and commentary on the subject published by the American Bar Association in 2007 entitled *The Evolving Use and Changing Role of Interstate Compacts: A Practitioner's Guide*.

Megan Mullin, Ph.D. Dr. Mullin is an Associate Professor of Environmental Politics in the Nicholas School of the Environment at Duke University. She holds a BA, MA, and Ph.D. from the University of California at Berkeley. She is the author of *Governing the Tap: Special District Governance and the New Local Politics of Water* (MIT Press, 2009), which won the 2010 Lynton Keith Caldwell Prize for the best book published on environmental politics and policy, and numerous book chapters and journal articles. Her teaching and research interests include intergovernmental relations, American federalism, public policy making and analysis, and government. Dr. Mullin reviewed the comparative assessment report (Clarke and Evans 2014).

Chester Newland, Ph.D. Dr. Newland is Professor Emeritus in Public Administration at the University of Southern California. His research, practice, and teaching include federal and local government management, public law, and business and government. Dr. Newland served many years as Distinguished Professor of Public Administration at the University of Southern California. He has been an active Fellow of the congressionally chartered National Academy of Public Administration (NAPA) since 1975 and is a past national president of the American Society for Public Administration (ASPA). He was editor in chief of the leading journal in the field, the *Public Administration Review* (PAR), 1984-1990. Among his many awards is the topmost national recognition in public administration, the Dwight Waldo Award, for lifetime practice, teaching, and scholarship, awarded in 2007. Fundamental themes of his work have been the disciplined values and practices of constitutional democracy. Dr. Newland reviewed the legal assessment report (Cooper 2014).

Craig Thomas, Ph.D. Dr. Thomas is a Professor of Public Affairs at the Daniel J. Evans School of Public Affairs, University of Washington. His research analyzes collaboration among public, private, and nonprofit partners as an alternative form of governance to centralized planning and command-and-control regulation. Other fields of interest include public management, the policy process, and environmental policy and natural resources management. He is the author of *Bureaucratic Landscapes: Interagency Cooperation and the Preservation of Biodiversity* (MIT Press, 2003), and co-author of *Collaborative Environmental Management: What Roles for Government?* (RFF Press, 2004). Dr. Thomas reviewed the organization assessment report (Cameli, Mogren, and Shinn 2014).

Instructions for Peer Reviewers

Columbia River Gorge Commission

Administrative Audit

Peer Review Guidance

Thank you for agreeing to be part of the review team for our draft administrative audit of the Columbia River Gorge Commission. This letter provides the general background and context for this project, the structure envisioned for our final report, the review scope, and the specific questions we would like each reviewer to address.

General Background:

Congress authorized Oregon and Washington to establish the Columbia River Gorge Commission (CRGC or Commission) as an interstate compact agency through the *Columbia River Gorge National Scenic Area Act of 1986* (the Act). Oregon and Washington enacted the Columbia River Compact (the Compact) and the Commission first convened in 1987. The Act and Compact serve as the Commission's guiding authorities.

The Act identified two purposes and established the CRGC to achieve them. The first was to establish a national scenic area to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge. The second was 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 consistent with the first purpose.

The Commission is comprised of representatives from the states of Oregon and Washington, the six counties with land area in the National Scenic Area, and the US Forest Service. Day-to-day operations are performed by a paid professional staff. The Commission and staff carry out their functions under an established set of rules (which include by-laws). Their external functions and primary missions are guided by the Act and Compact.

Events and circumstances in recent years, including a trend of declining budgets, decreased staffing levels, and a resulting inability to carry out some of its most basic tasks, coupled with findings from recent community visioning and priority-setting projects, have led the Commission to believe that the CRGC is no longer postured to do what the states and communities expect, the Act and compact require, or related regional planning and coordination that local governments are calling for. Current resource challenges aside, the Commission also questions whether the structure and processes used for the past twenty-six years are appropriate or adequate to meet the challenges and needs of the future.

In order to arrest the downward spiral in mission accomplishment, and to optimize the agency for the successful future of the National Scenic Area and its communities, the Commission requested an administrative audit of what the CRGC is expected to do and how it should go about doing it. The Commission seeks immediate and practical solutions to current resource challenges and a high-level validation (or recommendation for adjustment) of the CRGC's purpose and goals and the values upon which the CRGC was first established.

Structure of the report:

The final audit report will address the issues raised by the Commission through four components:

- **Organizational Assessment.** The organizational assessment analyzes trends over the past ten years in CRGC mission, product expectations, nature of day-to-day work requirements, the overall workload, structure, staffing levels, staff capacity, administrative processes, and resourcing. This assessment is being co-authored by graduate student Lisa Camelli, PE (phone: (503) 984-0364; email: lmcameli@yahoo.com); Dr. Rick Mogren (phone (503) 936-9482; email mogrene@pdx.edu), and Dr. Craig Shinn (phone: (503) 725-8220; email: shinn@pdx.edu), all of Portland State University's Mark O. Hatfield School of Government.
- **Legal Assessment.** This assessment examines the CRGC within the context of existing compact law and defines it within the federal-state-local government structure. It then reviews the principles of interstate compact law applicable to the Commission and other levels of government. The legal assessment is authored by Dr. Phillip Cooper, also of the Hatfield School of Government. Dr. Cooper may be reached at (503) 725-8155; email pcooper@pdx.edu.
- **Comparative Assessment.** This assessment uses a case study approach, examining two other similar interstate compacts. Its intent is to look for best practices as may be applicable to the CRGC. The comparative assessment is authored by Dr. Laura Evans and Victoria Clarke of the University of Washington's Daniel J. Evans School of Public Affairs. Dr. Evans may be reached at (206) 543-4900; email: evansle@uw.edu.
- **Synthesis.** The synthesis document will summarize and synthesize the findings and conclusions of the three assessments and present the audit recommendations. This part of the report will be written upon completion of the three assessments.

Scope of review and review questions:

Each of the three assessments is intended and written as a stand-alone report. However, they are deliberately not written in the manner of articles prepared for professional journals or law reviews or for legal or academic experts. They are intended for a more general audience, to include the Commission, commission staff, and interested parties outside of the Commission such as federal, state, tribal, or local government officials and local stakeholders. Nonetheless, an effort has been made to ensure the necessary citation to authority and other literature as appropriate. We request that you prepare your review comments with this more general audience in mind.

Please focus your review on the following questions:

1. Are there any inaccuracies, errors of fact, or other mistakes?
2. Are the claims being made sufficiently supported by the evidence presented and logic of the argument?
3. Are there any gaps in the presentation?
4. Is any of the information presented extraneous to the points being made?

As the final product is due for delivery to the Commission on October 14 2014, we request review comments be submitted to the report authors no later than September 20.

Thank you again for your assistance and we look forward to your comments. For general questions regarding this project, please contact me at (503) 936-9482 or email me at mogrene@pdx.edu. Please direct questions regarding specific report components to the authors identified above.

Sincerely,

Eric T. (Rick) Mogren, PhD
Project Manager

Appendix 3: The Project Team

The project team for the Columbia River Gorge Administrative Audit consisted of faculty and graduate students from the Mark O. Hatfield School of Government and the Daniel J. Evans School of Public Affairs.

About the Team

Lisa M. Cameli. Lisa Cameli is a graduate student in the Executive Master of Public Administration program at the Mark O. Hatfield School of Government. She holds a BS in Civil Engineering from the University of Kansas and has worked as a licensed Professional Engineer for the past 15 years. Her work experience has included project and construction management for the City of Portland, Environmental Services and Parks and Recreation, the US Soil Conservation Service (now Natural Resources Conservation Service), and the International Rescue Committee. She presently works for the City of Portland, Office of Management and Finance, as a Senior Policy Analyst. Ms. Cameli was lead author on the organization assessment report (Cameli, Mogren, and Shinn 2014).

Victoria Clarke. Ms. Clarke is a Master of Public Administration candidate at the University of Washington Evans School Of Public Affairs. She has worked for five years with the Kitsap Regional Coordinating Council in Washington. Ms. Clarke's work has focused on inter-governmental coordination between local, regional, and state agencies. She has worked on numerous successful projects that have brought government and citizen stakeholders together to collaborate on multi-modal transportation planning, funding priorities and long-range land-use planning in the Puget Sound Region. Before entering public service, Ms. Clarke worked in the marketing and communication sectors. Ms. Clarke was lead author on the comparative assessment report (Clarke and Evans 2014).

Phillip J. Cooper, Ph.D. Dr. Cooper is a Professor of Public Administration at the Mark O. Hatfield School of Government, College of Urban and Public Affairs, Portland State University. He received his BA in Government at California State University, Sacramento and a M.A. and Ph.D. from the Maxwell School of Citizenship and Public Affairs of Syracuse University. His research interests include sustainable development; constitutional law, administrative law, U.S. Supreme Court, public policy, public administration, local government, public contract management, and health care, disability and development. He is a frequent advisor to congressional committees on issues of constitutional powers and rights, with particular interest in presidential powers, separation of powers, and checks and balances. He has also been a consultant to local governments, state and federal agencies, the U.S. Congress, and the White House. Dr. Cooper authored the legal assessment report (Cooper 2014).

Laura Evans, PhD. Dr. Evans as an Associate Professor of Public Affairs at the Daniel J. Evans School of Public Affairs at the University of Washington. Among her academic interests are intergovernmental relations and political institutions. Her academic work focuses on the determinants of regional policy coordination and competition, with particular attention to institutional arrangements and racial and economic inequality. She holds a BA from the University of California, Berkeley, and a Master of Public Policy and Ph.D. from the University of Michigan. Dr. Evans coauthored the comparative assessment report (Clarke and Evans 2014).

Eric T. (Rick) Mogren, Ph.D. Dr. Mogren is an adjunct Associate Professor of Public Administration at the Mark O. Hatfield School of Government, College of Urban and Public Affairs, Portland State University and a Senior Fellow at the Hatfield School's Center for Public Service. He serves as a consultant, facilitator, and program coordinator for several interjurisdictional governance bodies in the Columbia River Basin. His academic interest focuses on the way institutional culture and identity combine with personal values to shape the structure and products of regional governance networks. Rick holds bachelor of science degrees from the State University of New York and Syracuse University; a Master of Science in Engineering from the University of Texas in Austin; a Master of Military Arts and Science from the US Army Command and General Staff College at Fort Leavenworth, Kansas; and a Ph.D. from Portland State University. Dr. Mogren coauthored the organizational assessment report (Cameli, Mogren, and Shinn 2014) and served as project manager.

Craig W. Shinn, Ph.D. Dr. Shinn is Director of the Executive MPA program and Professor of Public Administration at the Mark O. Hatfield School of Government, College of Urban and Public Affairs, Portland State University. He earned a B.S. from University of Maine, an M.P.A. at Lewis & Clark College, and a Ph.D. at the University of Washington. His research interests center on questions of environmental governance, collaboration, civic capacity, organization and institutions, social aspects of sustainability, and inter-jurisdictional administration of natural resources. He is coauthor of *Foundations of Public Service* (2nd Ed.) (M.E. Sharpe, 2013) and author or coauthor of numerous other books, journal articles, and book chapters. Dr. Shinn coauthored the organizational assessment report (Cameli, Mogren, and Shinn 2014).

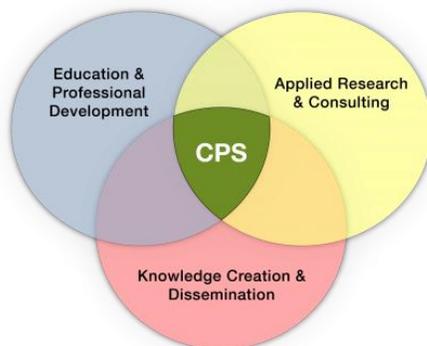
About the Mark O. Hatfield School of Government Center for Public Service

The Center for Public Service (the Center, or CPS) is a flexible self-support unit within Portland State University's Hatfield School of Government. The Center believes that public service is a legitimate, proud and essential calling and that innovative leaders and institutions are needed to:

- Competently execute the programs under their jurisdiction
- Serve as catalysts for constructive change and innovation
- Protect and promote justice and democracy
- Balance liberty and equity

The Center aspires to enhance the legitimacy of - and citizen trust in - public service institutions and the people who work in them. We do this by:

- Cultivating and empowering effective, ethical and innovative leaders and managers in government, nonprofit, and other mission-driven organizations
- Improving personal and organizational performance
- Expanding capacity for effective participation in governance networks
- Providing intellectual leadership through applied research and the dissemination of practical knowledge.



The Center synthesizes the Hatfield School of Government's teaching, research and service-related activities and applies this practical knowledge to build leadership and improve the effectiveness of public service professionals and organizations.

The Center for Public Service offers a wide variety of consulting, research and professional development programs for all levels of public service professionals and organizations. CPS offers services in the following areas:

- Organizational Assessment and Development
- Program and Service Effectiveness Evaluation
- Strategic Planning
- Citizen and Community Engagement
- Professional and Leadership Training
- Policy Analysis and Research
- Talent Development

About the Daniel J. Evans School of Public Affairs

The Evans School was established in 1962 as one of the nation's first schools of public affairs at a public university. Formerly known as the University of Washington (UW) Graduate School of Public Affairs, the Evans School was renamed in 2000 to honor Daniel J. Evans, who served as both a U.S. senator and three-term governor of the State of Washington.

The mission of the Evans School:

- Improve the quality of public and nonprofit service.
- Educate leaders to meet societal challenges with compassion, vision, analytic rigor, and practicality.
- Advance scholarship and ideas that strengthen public policy and management.
- Serve local, national, and global communities and promoting thoughtful, civil, public deliberation.
- Promote the values of integrity, respect, diversity, collaboration, and excellence in our own institution, in our graduates, and in the community.