



## Vancouver & Portland Port Coordination

### Introduction

In July 2010, the City Council passed a resolution directing the staff of the Bureau of Planning and Sustainability to develop a legislative proposal to potentially annex West Hayden Island into the City of Portland and develop zoning that may allow up to 300 acres for development of a marine terminal. As part of the resolution, the Council requested several additional studies to help them determine a policy decision for future development. One of the studies is an evaluation of opportunities for increased coordination with the Port of Vancouver.

The purpose of this memo is to evaluate existing coordination between the Port of Portland and the Port of Vancouver, and illustrate opportunities for greater coordination. This paper does not make a policy recommendation, but includes the following:

- Review background and structure of each of the Ports.
- Review port niches, competition, and existing coordination efforts.
- Look at opportunities for increased coordination, and identify barriers.
- Consider potential tools and mechanisms to increase coordination ranging from IGA's up to a joint authority
- Review existing Joint Port Authorities within the U.S. and consider benefits and obstacles to formation and management.
- Outline process steps required to create a single Interstate Port Authority (including identifying government requirements, barriers, and logistics)

Any discussion of a single Interstate Port Authority is purely hypothetical, and is driven by the Portland City Council's interest in understanding the full range of coordination that is possible. There is no interest by port of state authorities, nor is there a proposal to form a joint port authority. Any attempt to form such an authority would require several additional steps including local, state (Oregon and Washington) and federal approvals as documented below.

### Background of Ports

#### *Brief History*

Both the Port of Portland and the Port of Vancouver have a long agency history. The Port of Portland in its current form is the result of the merger of two agencies; the Port of Portland and the Portland Docks Commission (an agency formed by the City of Portland).

Port of Portland – The original Port of Portland was created in 1891 by the Oregon Legislature, to construct and permanently maintain a shipping channel from Portland along the Willamette and the Columbia out to the sea. The port's geographic responsibility transcended the boundaries of the city of Portland and influenced the health of the state, but was focused on the operation and maintenance of the shipping channel. State legislation gradually allowed an increase of the Port's responsibilities, which included expanding and connecting Swan Island through the placement of fill and establishing and running Portland's airports. The Port also expanded their real estate holdings and became more involved in development projects, especially those that supported their transportation mission. Increasing real estate holdings also provided alternate sources of revenue.





Portland Docks Commission – At the time of the creation of the Port of Portland the docks along the Willamette were in private ownership. However, many of the original docks along the waterfront had fallen into disrepair to the point that the local citizens agreed to finance a public bond of \$2.5 million through a voter initiative process to clean up the docks and to set up a “Portland Commission of Public Docks”. The commission was established in 1910 after passage of the initiative. The first new public dock completed under this commission was Terminal 1 (T1) along NW Front Street between NW 14<sup>th</sup> & 17<sup>th</sup> in 1915. It was anticipated that the completion of the Panama Canal in 1914 would spur new trade growth. World War 1 delayed that growth for a period of time, but after the war, the Docks Commission continued to acquire land along the Willamette downstream of downtown, creating what are now T2 and T4 during the early part of the 20<sup>th</sup> Century. However, an ongoing problem of the local docks commission was maintaining enough income to provide for the maintenance of the public docks.

Merging of Portland Agencies into today’s Port of Portland – In 1971, Governor Tom McCall established legislation to merge the Port of Portland with the Docks Commission, to enable Portland to better compete in shipping trade with Seattle. In 1973, the Port of Portland’s jurisdiction was expanded to Washington and Clackamas Counties, along with the responsibility to coordinate the maintenance of the shipping channel. The expanded Port of Portland continued to acquire and develop land downstream of downtown including the large-scale Rivergate development which includes T5 and T6 in addition to industrial parcels serving manufacturing and distribution industries. The Port of Portland is the largest port in Oregon and serves as a Pacific Northwest gateway to North American trading routes.

Port of Vancouver – The Port of Vancouver was established in 1912 by local voters to ensure the public ownership of the trade docks along the Columbia. The Port of Vancouver is the third oldest port in the state of Washington. Like Portland, but on a smaller scale, the earliest docks were located close to downtown along the Columbia. The current location of the Red Lion Inn at the Quay was the original T1 terminal for the Port. The Port has since acquired a fairly continuous set of parcels that creates about four miles of working waterfront stretching along the Columbia to the west of downtown Vancouver. Acquisitions have included the old Kaiser Shipyards to more recent purchases of the Alcoa Aluminum plant, which is becoming Terminal 5 (T5). The Port of Vancouver is the third largest port in Washington based on total tonnage, trailing Seattle and Tacoma. It is the second largest port along the Columbia River behind Portland. The Port of Vancouver’s focus is on the riverfront properties and adjoining industrial lands. It has not expanded into aviation like the Port of Portland.

## Port Governmental Structure

### *Port of Vancouver and Governmental Structure*

As mentioned above, the two ports were formed through different processes, and each has a unique operating structure. The Port of Vancouver was formed in 1912 through a local vote and is overseen by a Port Commission consisting of three elected commissioners. The number of commissioners is determined by the State of Washington codes (see below). The commissioners are elected by district through elections of the citizens of Clark County, which includes Vancouver. The three commissioners each serve terms of 6 years and can be re-elected. The commissioners have authority to appoint major administrative staff. The Port of





Vancouver uses the strategic planning process to lay out the blueprint for future growth. Their current Strategic Plan covers 2011-2020.

The state of Washington oversees port districts through their Revised Code of Washington (RCW). Title 53 of this code pertains to port districts throughout Washington. This code maintains the rules for the formation and management of the port district, and financing of operations. Generally, port districts consist of three commissioners, although in some cases this can be increased to five. The state ports are able to coordinate certain reporting duties with the Washington Public Ports Association (WPPA). The WPPA, formed in 1961 helps promote the interest of the port community with state and regional governments. This can include coordinating reports such as the 2009 WPPA Marine Cargo Forecast. The RCW also provides requirements and/or incentives for cities and ports to coordinate their growth through section 36.70A.085 of Title 36 which regulates the growth management of cities and counties. Cities with a container port that has operating revenues in excess of \$60 million must include a container port element in their comprehensive plan. Cities that include a port district that generates operating revenues of \$20 million may include a marine industrial port element in their comprehensive plan. The City of Vancouver recently approved their Comprehensive Plan for 2011-2030. The plan does not include a marine port element, although it appears the Port of Vancouver's operating revenue was \$31 million in 2011.

#### *Port of Portland and Governmental Structure*

The Port of Portland was originally created through state legislation and then combined with the Docks Commission by Governor McCall in 1971. Its jurisdiction includes Multnomah, Washington and Clackamas Counties where it has land and infrastructure holdings such as Portland International Airport and several regional airports, four marine terminals and industrial lands stretching out to Troutdale and Gresham. However, its influence extends beyond the three counties, and the nine members of their Port Commission are appointed by the Governor and ratified by the Oregon Senate. At least two commissioners must be from each of the three counties served by the district. The remaining three commissioners can live in any part of the state, and there is often at least one member appointed who is from a rural district, perhaps recognizing the port's importance to state trade. Port Commissioners serve for four years and appoint the executive director.

The Oregon State Statutes contain a section (ORS 777) that relates to port operations within the state. A separate section, ORS 778 pertains specifically to the Port of Portland. ORS 778 defines the operation of the Port of Portland, *"to promote the maritime, shipping, aviation, commercial and industrial interests of the port as by law specifically authorized. The port may acquire, hold, use, dispose of and convey real and personal property, make any and all contracts the making of which is not by this chapter expressly prohibited. It may do any other acts and things which are requisite, necessary or convenient in accomplishing the purpose described or in carrying out the powers granted to it by law. The port may supply surface and air craft with fuel and other supplies at reasonable cost as may be for the best interests of the port."* The statutes contain rules for the ports operations, ability to issue bonds, and approve ordinances that regulate the use of land. The Oregon Statutes include provision for all ports to be able to acquire land through condemnation or eminent domain. Locally, the Port's properties are zoned by the respective jurisdictions and are included in their comprehensive plan. While the City of Portland recognizes the importance of the port and industrial properties in their comprehensive plan, it does not have a specific marine port element.





Although both the Washington and Oregon state codes include provisions that guide the operations of state ports, it appears that the Oregon statutes include more specific language, and they include language specific to the Port of Portland, whereas there are not any state rules specific to the Port of Vancouver. Also, the basic structure of the two ports are different, with the Port of Vancouver having a smaller set of three commissioners that are locally elected and serve a six-year term, while the Port of Portland has nine commissioners that are appointed by the Governor and voted in by the Senate and serve a four-year term. Most of these requirements are part of the state statutes.

Although both Ports are public agencies, neither port receives more than a fraction of their income through taxes. The vast majority of the port's income comes from terminal leases, wharfage and dockage fees, airport fees (in the case of Portland), and income from their land holdings and leases. As an example the Port of Portland receives approximately 4% of their revenue through property taxes collected within the three counties. The Port of Vancouver also receives a similar small amount through its jurisdiction.

### Port Goals and Market Niches

#### *Goals of Ports*

The historical differences of the ports may be noted in their mission statements. The Port of Vancouver's statement focuses on local benefits and impacts:

*"The Port of Vancouver's mission is to provide economic benefit to our community through leadership, stewardship and partnership in marine and industrial development."*

The Port of Portland's mission is based on its role in regional governance as indicated below:

*"The mission of the Port of Portland is to enhance the region's economy and quality of life by providing efficient cargo and air passenger access to national and global markets."*

The Port of Portland also recognizes its larger scale when it states, "Port Operations impact the entire Pacific Northwest". The difference in the range of influence and structure is illustrated by how port commissioners are appointed for each port, and how the state rules apply to the ports, explained above in more detail.

#### *Port Material Products and Niches*

Both the Ports of Portland and Vancouver handle many of the same materials, but each of these ports have market niches as well. The Port of Portland's cargo includes containers at T6, Honda, Hyundai and Toyota auto imports at T4 and T6, grain and potash at T5, additional dry and liquid bulks at T4 and breakbulk at T2. There are also many private terminals along the Willamette that handle dry and liquid bulks. These include the petroleum terminals along the west side of the Willamette, the scrap metal processing and shipping at Schnitzer Steel and the fertilizer terminal for J.R. Simplot.

The Port of Vancouver is a "landlord port". It leases maritime and industrial land allowing for it to negotiate wharfage and dockage agreements. Vancouver's materials and facilities include a large grain terminal, and a scrap metal processing and export facility at the berths adjacent to the rail bridge, just east of their Terminal 2 (T2). Terminals 2 and 3 handle breakbulk, neobulk, liquid and dry bulk cargos. A Subaru auto import/export terminal is located further west at T4. Vancouver is negotiating an agreement with the Australian based mining company BHPS to build a potash terminal at their new T5, an area previously used by Alcoa as an aluminum smelter. T5 is also used as storage for wind energy imports.





Although each of the ports ship similar materials, there are features that distinguish them. The Port of Portland is the only terminal in the Lower Columbia to handle cargo containers in substantial numbers and is likely to remain the regional hub for container traffic. Port of Portland's T6 is better equipped to handle the truck and rail traffic for this use than Vancouver's facilities. The private terminals in the Portland Harbor handle a variety of petroleum products. This is due to the location of the Olympic pipeline along the west side of the Willamette which provides convenience in transferring shipments. This pipeline crosses through Sauvie Island and enters Washington west of Vancouver's port, and so a similar connection cannot be made at Vancouver, without adding more infrastructure.

Vancouver's specialty is in grain and bulk exports and various breakbulk products, especially those that are larger and/or heavier. Vancouver is the only port in North America with two 140-metric ton mobile harbor cranes which can move between various berths for unloading. It also features covered warehouse storage immediately adjacent to some of its berths. As a result, the Port of Vancouver is the region's primary port of entry for wind turbines as well as for larger pieces of heavy equipment. In areas where similar materials are being loaded (grain, autos, etc.) each of these facilities is operated by a different operator who have a specialty in handling a certain region or product.

#### *Market Role in each Port's development*

Each port has developed based upon the market opportunities available for exporting and importing goods at the time of expansion. Here are a couple of examples: Portland's desire to compete in the burgeoning container market led it to construct a container terminal at T6 in the 1970s, but the current market conditions seem to concentrate a limited number of container terminals into larger hubs. This means that neither Portland nor Vancouver are likely to expand beyond a comparatively small regional container terminal, although Portland's truck and rail access may allow it to continue its success in the Pacific Northwest. However, it is unlikely that Portland will challenge LA/Long Beach. Portland's retrofit of terminal T4 and expansion of T6 occurred during the time of reduced domestic automobile production and the increased interest in imported autos. Portland began with VW and moved onto Honda and Toyota imports, two of the leading foreign automakers. Both Vancouver and Portland took advantage of the second wave of auto importers and secured Subaru and Hyundai respectively. These terminals supply much of the American West with imported automobiles from these manufacturers. It's quite possible that another wave of imports may come from other Asian manufacturers. More recently, Vancouver's ability to provide large open storage and loading areas, and its purchase of the mobile cranes has enabled it to become a main point of entry for large breakbulk items such as the wind turbines that make their way into the western interior.

While the examples above focus on new import opportunities, it should be noted that a large number of each port's facilities handle export shipments. The Pacific Northwest and Canada both produce and mine a large amount of resources that are used by the rest of the world. This includes food products such as grains and soybeans, mined products such potash, soda ash, coal and other bulk minerals and scrap steel and wood products. Many of these products are shipped to the nations of the Pacific Rim. As these regions continue to grow, it's likely that trade of these materials will increase or new markets will appear. Portland and Vancouver have both been primary exporters of grains and its continued growth may be illustrated by the new terminal in Longview. In particular, wheat continues to be a substantial export commodity for both the Port of Portland and Vancouver, particularly to Asian markets. However, it is only





in the more recent past that these ports have engaged in the export of scrap metal and certain mineral bulks such as potash and copper concentrates.

#### *Other marketing opportunities in Pacific Northwest*

Outside of the Portland and Vancouver, there have been recent attempts to expand the opportunities for coal export, including a proposal in Longview, and an expansion of the Canadian ports in Vancouver and Prince Rupert in British Columbia. Shipment of certain goods may have hurdles gaining political approval. This has been evident in the lawsuit filed against the coal terminal proposal. Neither the Port of Portland, nor the port of Vancouver have plans to participate in coal exports. However, this growth is an indicator that it is not always clear where the next opportunity may occur in the future. More new market opportunities for exporting other goods may present themselves in the future, while other markets may see a reduction.

#### Past and Current Coordination Efforts

Although the governmental structure of the two ports is different and is partially dictated by state code or statute, there have been, and continue to be efforts to coordinate mutually beneficial agreements. These efforts can include other ports within the Lower Columbia navigation channel such as Longview and Kalama. Often coordination efforts among ports are based upon shifts in demand or in infrastructure that can be global in nature. Each port has unique land, transportation infrastructure, dock space, multi-modal shipping agreements and other issues, each of which can have an effect on international shipping decision-makers. The multiplier effect of certain coordination efforts can result in regional economic benefits.

#### *Past Coordination Efforts*

There have been several past attempts to study port coordination between the Ports of Vancouver and Portland. A City Club Bulletin from 1965 analyzed ways to facilitate the coordination of ports in the Columbia River area including the possibility of a “merger, reorganization, or modification of their areas of jurisdiction”. This report was done when the Port of Portland and the Docks Commission were separate entities. As the report noted, Governor Hatfield had tried to introduce bills in the house in 1963 and 1965 in an attempt to consider studying possible attempts at state- or region-wide organizational arrangements. While the report mentioned the potential need to coordinate all ports in the Lower Columbia Estuary as a long-range strategy, it’s focus was on the roles of the Port of Portland and the Docks Commission. A recommendation was made to combine these functions into one authority under the Port of Portland, and extend the Port district to the three county area; a move that was completed a few years later.

In 1969, Senate Bill 492 was introduced to allow ports in Oregon to merge (provided one of them was the Port of Portland). This would have been most feasible for the Columbia River ports. Although this bill was defeated in the session, it led to the establishment of the program to merge the Port and the Docks Commission and expand the Port of Portland’s boundaries. However, this program also called for the Port to develop a lower Columbia River Port program and investigate a bi-state Port authority. These ideas were never implemented and led to a House Bill in 1981 calling for the consolidation of the Ports of Astoria and Portland to help with the siting of a potential coal terminal. This bill was not passed either, and the joint effort to build a coal terminal never came to fruition. It should be noted that the Port of Portland did





install the infrastructure for a potential coal terminal at their Terminal 5 prior to this House bill, but never followed through with their plans and dismantled the equipment in the 1980's. This is the site of the current potash terminal. It should be noted that the Oregon Statutes now has language that allows coordination among the Oregon ports on the development of facilities.

#### *Port Intergovernmental Agreements (IGAs)*

More recently, there have been efforts among the Lower Columbia ports to coordinate activities and operations of the ports. These agreements are generally implemented through Intergovernmental Agreements (IGAs) between the various port agencies. The first instance provided from the Port of Portland was of an IGA between the Ports of Portland and Vancouver, signed in 1993, to allow the Port of Vancouver to move and use a floating dock belonging to Portland for the new Subaru terminal in Vancouver. The agreement acknowledged the benefit of jointly promoting the use of this dock, established revenue sharing for dockage fees, and included language to explore further coordination. This IGA has been amended to continue to allow the use of the dock by Vancouver.

Potentially recognizing the benefits of cooperation in promoting the Portland/Vancouver area, the two ports entered into an IGA in 1996. Although the document did not include specifics, it included a section to allow port staff to develop and draft joint proposals to consider cooperation on the development or operation of facilities, sharing of facility space, and coordination of intermodal operations, marketing efforts and expenses. Any negotiations and agreements would have been subject to ratification of the two commissions as well as any requirements of the Federal Maritime Commission.

To update the 1996 agreement, the Ports of Vancouver and Portland entered into a new IGA in 2004, to consider new avenues to cooperatively market and promote the facilities in Portland and Vancouver, and for methods to jointly develop underutilized lands, including a method to calculate cost and revenue sharing. Coordinating joint development would be subject to the agreements of the commissions and could also require various state authorizations, depending on the scope of the coordination. At this point, this agreement has been mostly used to coordinate marketing efforts between the ports. As an IGA, the document can only provide opportunities for encouraging coordination. It is not a tool to compel the two agencies to jointly develop a property if it is not in their mutual interest to share in the development. However, the two ports have coordinated their freight and cargo forecasting over the more recent past.

The Columbia channel deepening project necessitated increased communication and coordination among all of the major ports of the Lower Columbia in order to secure funding, information and support for the multi-state, federally-led effort. This resulted in several IGAs. The first created in 1999, coordinated the activities between the states and their ports and designated the allocated costs, shared responsibilities, and project 'non-federal sponsors' to coordinate the project among the states. The other IGAs were internal to each state to name the sponsors and coordinate their roles for funding, acquisition and maintenance of local facilities. They included one between the Oregon ports of Portland and St. Helens and one between the Washington ports of Vancouver, Woodland, Kalama and Longview. In the case of the Oregon IGA, the Port of Portland was designated as the sponsor, while the Washington IGA created a group out of the four ports to serve as the sponsor. Several other agreements were created between the various ports to make the dredging project a success, including beneficial





use assessment for the placement of the dredge materials which resulted in the materials getting placed at 28 different sites under control of the six different ports.

The dredging project was completed in 2010. Several of the ports that participated from both sides of the river have recently signed into a new IGA with the Army Corp of Engineers to help support additional studies to assess the feasibility of developing certain navigation improvements, specifically anchorage infrastructure improvements on the Lower Columbia, both in Oregon and Washington and any potential work as a result of the study. This IGA, signed between Portland, Vancouver, Kalama and Longview, provides a financing plan for the ports payment for the navigation study and any resultant work done by the Corp of Engineers. The Port of Portland was designated as the point of contact for this agreement. This document was signed in April of this year, and appears to be the only other agreement that crosses state lines.

Over the past 15 years, there has been an increase in coordination and communication between the Ports, especially Vancouver and Portland. However there is still public concern that many elements of port operations and planning are not coordinated between the ports. This was a point of contention in the 1999 West Hayden Island process, where the growth plans of each of the ports was not subject to much scrutiny in the analysis of alternatives. While the line of communication between the ports has expanded, their coordination efforts may not satisfy those who advocate for joint planning. The two ports do still compete for business and satisfy different local, state and regional goals. As stated below, some of this competition is inherent in the fact that the two ports operate under different state and regional systems whose influence stops at the Columbia River. These goal encourage each port to try and operate under a competitive advantage over the other port to encourage economic growth into that state. As a result, the two ports share information and studies when relevant, but engage in competition with each other when necessary. Without a regulatory oversight that spans the state boundary, the coordination efforts will remain voluntary between the ports.

#### *Effects of Coordination on Markets and Infrastructure*

The coordination effort involved in the dredging project has likely had the greatest impact on the region's improved marketability. This work has allowed the Lower Columbia Ports to promote expansion and new operations such as the EGT grain terminal in Longview, a newly updated \$95 million soy and corn export facility, and potential potash facility in Vancouver. Some of the marketing and coordination agreements between Vancouver and Portland have benefitted the operations of the two ports, including the intermodal shipments of automobiles, the sharing of auto unit trains, and the joint marketing efforts.

Along with the potential development of their T5 for a potash terminal, Vancouver is in the process of greatly expanding their rail capacity and connectivity. Known as the West Vancouver Freight Access Project, a rail loop able to handle unit trains has already been completed at T5. Ultimately, new connections to the BNSF north/south and east/west tracks, including a new, grade-separated track under the current Columbia River rail bridge will improve rail efficiency by 40% by 2017, while more than tripling the Port of Vancouver's potential rail cargo. It is anticipated that Vancouver will continue to use the Port of Portland's floating dock for the Subaru terminal and there will still be a need to coordinate unit auto trains between the auto terminals on either side of the river. It is expected that IGAs will continue to be used in instances where it may serve the mutual interests of both ports. However, it is not clear whether either port will need to use the IGA process to coordinate





future development of a terminal as both ports have the resources to oversee development opportunities on their own.

#### *Other Coordinating Efforts in Lower Columbia*

Outside of the IGA to coordinate the dredging activities along the Lower Columbia River, we have not found evidence of agreements between the ports of the Lower Columbia. Most of the other ports within the Lower Columbia individually promote their niche shipping advantages and their industrial development opportunities. However, there are examples of agencies created to provide opportunities for joint advocacy. The Columbia River Channel Coalition was established to help coordinate the deepening project and has been involved in other projects such as the rehabilitation of the jetty at the mouth of the Columbia, working with the Pacific Northwest Waterways Association (PNWA) to help advocate for these projects. Established in 1934, the PNWA has often advocated for federal funding on navigation projects, but hasn't necessarily played a visible role in organizing port to port coordination.

On a statewide scale, the state of Oregon now has an association, the Oregon Public Ports Association (OPPA), to help promote shipping in the state, lobby for legislative proposals and financing opportunities, and foster communication among the ports. The association's goals mirror the goals of the WPPA mentioned above. However, it's not clear how large of an effect the association has with its members or with government agencies, and, its current presence appears minor.

#### Additional Coordination Opportunities

Due to the proximity of the Ports of Portland and Vancouver, and their combined influence on marine shipping in the Lower Columbia, it may be possible to expand their coordination activities beyond current levels. This section considers other possible opportunities through IGAs, land use and operational coordination and some of the advantages and barriers to the coordination. The focus is on Portland and Vancouver, but these opportunities could be expanded to other ports of the Lower Columbia River. Information on port consolidation will be in the next section.

#### *Tools for Further Coordination*

The two ports have instituted several IGAs to allow them to share resources such as equipment, and marketing efforts. The IGA signed in 2004 included opportunities to allow the two ports to potentially share in the joint development of underutilized lands. A "Joint Development Agreements" section states that the two ports may consider agreements that go beyond an exploration of opportunities and include a joint development project including "the sharing of costs and revenue, disposition of resources upon expiration of a joint development agreement, and dispute resolution". This would be done as a separate agreement and would likely be subject to approval from both of the port's commissions, and would potentially require approval by the Federal Maritime Board. It is not clear at what point a coordination effort could require approval at a higher level, such as approval by the respective states and/or Congress. As described under the section on Interstate Joint Port Authorities, there are instances when joint development of a new facility has been attempted by creating a joint authority.

Expanding on the IGAs, the Ports of Vancouver and Portland may be able to consider agreements that include coordinating the two port's land supply and mitigation opportunities.





However, the coordination of land use programs between ports of two different states, would require additional analysis since the ports operate under two sets of regulatory structures that oversee development and environmental mitigation. As an example, it may be difficult for a port from one state to satisfy an environmental mitigation requirement by providing an enhancement within the other state, since the implementation and enforcement rules are different between the states. Likewise, it may be difficult for a port or city agency to defer industrial development to another state to satisfy a regional land need, without having a state regulation that allows them to do that. In Oregon, the regional growth in the Portland area is coordinated through Metro, which is the regional government entity that coordinates planning and infrastructure investment in the region. Metro requires the underlying governments to provide an adequate supply of employment and residential lands to provide for the next 20 years of growth. This growth must be accommodated within the jurisdictional boundaries (i.e. Metro's sphere of influence within Oregon). Metro's responsibilities are dictated by the State of Oregon and the state's land use goals. In Washington, a similar system of regional planning has been set up through 1990's Growth Management Act, enabled through Section 36.70.A of the Revised Code of Washington. This act also requires local governments such as Vancouver and Clark County to set up Comprehensive Plans that protect critical natural areas while providing adequate lands for 20 years of growth within their Urban Growth Areas, and apply only to the Washington side of the river. Neither of these provisions are set up to allow regions to defer growth to an adjoining state. Nor is there currently a strong movement to allow growth allocation between states, since both states often compete to attract industries and job generators. Coordinating land uses and phasing between the Portland area under Metro's jurisdiction and Clark County may require some type of merging of land use responsibility between the two agencies overseeing regional planning, which would require bi-state coordination.

With the different state regulations, there is a fine line between how much an IGA can coordinate joint planning and at what point the joint planning requires bi-state approval, which functionally approaches a joint bi-state port authority. IGAs that allow for joint port planning and development may need to provide contingencies for issues that can arise from the application of local and state regulatory requirements that could affect their agreement. It is important to reiterate that IGAs are voluntary agreements between the agencies and have to be viewed as benefitting each of the parties that sign them. They are not a mechanism to force restrictions on one party unless that party expects to achieve future gains as a result of those restrictions. Therefore, it may be difficult to use non-regulatory, voluntary agreements such as IGAs to dictate land use planning and mitigation measures above and beyond general coordination.

Although the sharing of land use planning may be difficult to do through IGAs, it seems that the coordinating language within the previous and existing IGAs indicate that there may be opportunities for the sharing of some additional operational functions and financing. As the Port of Vancouver completes their West Vancouver rail yard improvements, it may be possible for the Port of Portland to work with Vancouver on other rail efficiency measures to increase the efficiency of storage capability of areas in Vancouver that could benefit rail operations at T6, as an example. The two ports could also explore coordinating freight rail improvements with Burlington Northern / Santa Fe (BNSF) or Union Pacific (UP) railroads in an attempt to increase rail efficiency through the Portland and Vancouver rail yards. The Port of Portland currently releases an annual Port Transportation Improvement Plan (PTIP) to prioritize their list of projects needed to benefit the region, and summarizes the funding coordination determined





on projects approved to move forward. It's possible that the Port of Portland could include the Port of Vancouver in these types of plans. However, it is not clear whether documents such as the PTIP influence the capital improvement plans of the railroads, as much of their information is proprietary.

#### *Possible Regional or Lower Columbia River Coordination Efforts*

The ports of the Lower Columbia have recently engaged in agreements to aid large projects that benefit the group such as the river deepening project and the navigation study. It is possible that the collection of ports could create a permanent group or agency that would advocate for the needs of the ports along the Columbia. The Great Lakes Commission could be used as an example of what this type of coordination entails.

The Great Lakes Commission is an interstate compact agency consisting of all the states that border the Great Lakes. It was established by joint legislative action of these states and federal law in 1955. In 1996 associate membership status was granted to the Canadian provinces of Ontario and Quebec. It's "compact" states that the role of the commission is "to promote the orderly, integrated, and comprehensive development, use and conservation of the water resources of the Great Lakes Basin". The commission's products "focus on communication and education, information integration and reporting, facilitation and consensus building, and policy coordination and advocacy". The commission is the only state/provincial organization of its kind. Each jurisdiction (state or province) appoints a delegation of three to five members.

The primary products of the commission appear to be research and advocacy on behalf of its members. The Commission is not engaged in the development of any of the port facilities. Although the commission covers eight states and two provinces, it does not appear to dictate any growth forecasts or limitations for individual ports under its member states. These ports continue to compete with each other for business and clients, although the commission provides support and resources to research larger scale marketing and environmental issues that affect the entire Great Lakes region.

It is possible that a smaller scale version of this commission could be created between the states of Oregon and Washington for the collection of ports in the Columbia River region, if this type of regional coordination could be shown to benefit the two states and their port system. The commission could create a standing committee that may be able to more easily coordinate region-wide projects such as future navigation improvements or channel deepening. It could also coordinate regional marketing or environmental studies. These types of activities could benefit all the ports in the region. However, there is no indication that the regional ports would see a benefit in using the commission to set regulatory or development policy on each other, since this would potentially create tension within the commission members. Also, the existing state statutes of Washington and Oregon would need to be amended to allow a bi-state commission to regulate port development on the Lower Columbia. A commission structured like the Great Lakes Commission would need regional and bi-state political support through the Oregon and Washington legislatures.

#### *Barriers to increased bi-state port coordination*

As discussed above, the ports on the Oregon side of the Columbia operate under a different set of regulatory standards than the ports on the Washington side. There are provisions in the Oregon Revised Statutes that allow the Ports of Portland, St. Helens, and/or Astoria to coordinate on developing and managing projects (discussed in the next paragraph). However,





the regional goals and regulations administered by Metro as well as the related state regulations limit the ability to plan and coordinate across state lines. As an example, the various cities of the Portland Metro area need to provide evidence that their boundaries include a sufficient amount of the residential and employment land for the next 20 years. This analysis only focuses on the Oregon side of the river. A jurisdiction such as Portland cannot legally justify its own shortage of industrial lands by claiming that there are excess industrial lands in Vancouver. This is symptomatic of a larger planning issue that Metro's jurisdictional oversight does not match the boundaries of the Portland Metropolitan Statistical Area which includes Vancouver, Washington. Although greater regional coordination of this area would be considered by many to be a benefit to the long term growth management of the area, the mechanism to make the regulatory changes needed to the Metro charters and state codes would require approval of the Oregon and Washington legislatures as well as the local approval of the citizens in the metro area (including Clark County). It is also not likely that there would be support for regulatory changes on the Oregon side of the river without corresponding changes to the Washington side, to provide a balance in supporting and regulating growth. For a change like this to occur, the mayors and other leaders for the region would need to come together to recommend this change. If this effort were to be made in order to allow coordinated economic planning across the river, it would make regulatory sense to tackle the issue in a holistic way and consider extending all regional planning (housing and jobs) across state lines to match up with the overall metropolitan area.

It should be noted that the Oregon Revised Statutes and State Land Use Goal 15 address the need for coordinated planning of the Willamette River Greenway among the local jurisdictions bordering the Willamette River, from its confluence with the Columbia up to the reservoirs in the Cascade foothills. The intent of these regulations is to help coordinate the planning and preservation of the natural, scenic, historic, economic and recreational qualities along the river. Currently, the Columbia River has no similar structure of oversight in state planning. The Columbia Gorge regulations were created through an Interstate Compact, but applies to a limited area. Some State regulations and goals apply to the coastal areas of the Columbia (estuaries, beaches, etc). Considering the importance of the Columbia River to the State, a worthwhile option to pursue would be the consideration of a statewide planning goal and resultant statutes that apply to the Columbia River, addressing many of the same features as the current Willamette regulations. Having a coordinated set of goals and regulations on the Oregon side of the river, could potentially lead to greater bi-state regulations in the future.

### Joint State Port Authorities

#### *Overview*

Several states and regions have combined their port facilities under one port authority. This may be in acknowledgement of a state interest in coordinating trade. There are approximately 10 authorities that cover statewide facilities including Alabama, Georgia, Maryland, Massachusetts, Virginia, and North & South Carolina. However, most of these states are dominated by only one or two major port facilities (e.g. the Maryland Port Administration could easily be called the Baltimore Port Administration). Creation of a state port authority likely requires both local and state approval, depending on how the port agencies were structured initially. In Oregon, the Oregon Revised Statutes include clauses (under section ORS777 and 778) to allow ports to join together on development and management projects with provisions to purchase land and allocate costs and expenses, without having to necessarily form an actual





joint port authority. It also appears that there have been talks in the past to consider joint authorities on the Oregon side of the Columbia River, and any attempt would only need the approval of the Oregon State Government. In addition to Portland, the Oregon ports on the Columbia include St. Helens and Astoria. Neither of these ports is heavily involved in deep-water trade, nor are their facilities considered as viable expansion opportunities. This is partially due to the limited rail and highway access to these sites.

There are few examples of port authorities that cross over state lines. Of the ports listed under Wikipedia's list of port authorities, only two have been found that cross state lines. They are the Port of New York/New Jersey, and the Delaware River Port Authority. Only the New York/New Jersey Port oversees major maritime operations, and also includes airports. In addition, the states of Georgia and South Carolina are exploring the creation of a joint authority to build a new terminal. More information on these are provided below.

Generally, Joint Port Authorities between states need to receive approval from three different governing bodies in order to gain the power to operate across state lines. Depending on the format of the existing ports, there needs to be approval at a local or regional level, which may have to correspond with regulatory change. At the state level, legislative approval from each state individually needs to be attained, generally through administration of an Interstate Compact, and amendments to state regulations and/or charters need to be placed on the books. In addition, there may need to be a series of agreements created between the states to provide the necessary responsibility and procedures for operations, costs and revenues, dispute resolution, etc. Finally, there needs to be approval from the legislative branch of the Federal Government (i.e. the Interstate Compact needs congressional approval). The Columbia River Gorge Commission is a local example of a bi-state joint agency formed through an Interstate Compact. The complexity of these steps has increased over time as each layer of government contains additional regulations. The process to combine the Ports of New York and New Jersey in 1921 may have been easier to do than the current process to create the joint authority to develop a terminal on the Georgia / South Carolina border. More detail on the existing, and proposed, Joint State Port Authorities is provided below.

#### *Port of New York and New Jersey*

The Port of New York and New Jersey was formed in 1921 via an Interstate Compact between the states of New York and New Jersey, which required the consent of Congress. This was done as part of an agreement dictated by the Interstate Commerce Commission requiring the Ports of New York and New Jersey to work together and resolve their rail freight disputes. The combined port oversees the marine ports in the boroughs of Brooklyn and Staten Island as well as the facilities in Newark, Jersey City and Bayonne New Jersey. The Port Newark-Elizabeth terminal is the largest on the Eastern Seaboard. The Port Authority also operates many of the Hudson River crossings connecting New Jersey with Manhattan, including the Holland Tunnel, Lincoln Tunnel, and George Washington Bridge, and three bridge crossings connecting New Jersey with Staten Island. The Port Authority run many other major transportation infrastructure hubs in the area including the Bus Terminal, the PATH rail system and LaGuardia, JFK, Newark Liberty International Airport and smaller airports located north of New York City. The Port Authority also developed the World Trade Center, and has been involved in its reconstruction. Although the agency does not have the authority to tax, and receives no state funding, it could be argued that it is the most influential public agency in the New York Metropolitan area due to the number of facilities it manages. It's costs are paid through rents, fees, tolls, and facilities. The agency has its own 1,600 member police





department to provide safety at its owned and operated facilities. The governors of New York and New Jersey each appoint six representatives to serve on the commission. These members serve for six years without pay, but typically represent business leaders with ties to the governor.

#### *Delaware River Port Authority*

The Delaware River Port Authority was formed in 1951 and was an outgrowth of the Delaware River Joint Bridge Commission, which was first created in 1919 for the purpose of bridge construction and operation. This port authority oversees transportation infrastructure that benefits the Philadelphia, PA / Camden, NJ metropolitan area, including four bridge crossings, the commuter rail and ferry system. It's responsibilities also include the operation of a cruise terminal, and the authority had owned an intermodal rail cargo facility until selling it in 2006. The board consists of 16 members, 8 from each state. The eight from New Jersey are appointed by the Governor, while six of the eight from Pennsylvania are appointed by the Governor of Pennsylvania. The other two positions are filled by the state treasurer and auditor general. Each of these two are elected positions. It should be noted that both Philadelphia and Camden (South Jersey Port) have their own port authorities which handle marine cargo and freight shipments. Camden's marine industrial development has severely declined over the years, as it had been a major shipbuilder. It is evident that the South Jersey and Philadelphia Port Authorities have not been working together as a lawsuit was brought against the Philadelphia Port Commission for a dredging and expansion project that was felt to hurt the South Jersey port area.

#### *Georgia / South Carolina Port Authority*

The Jasper Ocean Terminal is a potential container terminal that is being coordinated between the Georgia and South Carolina State Port authorities, with the hope that a Joint State Authority can be created to construct and operate the facility. This example may be a good case study of the type of negotiation needed to put together a bi-state authority. The site sits on the Savannah River which divides the states of Georgia and South Carolina, but is located in Jasper County in South Carolina. The Port Authorities for each state have major facilities nearby, with Savannah Georgia's port located a few miles upstream from the Jasper County site, and South Carolina's major port located in Charleston, 80 miles up the coast.

The Jasper terminal site has been considered for a potential marine terminal for many years. The County has long tried to attract development to the site, but has run into opposition from both the Georgia and South Carolina Ports at different times. It has had legal challenges and lawsuits applied to the property over the years. A period of peace was reached in 2007 when the two governors signed a Memorandum of Understanding to have the two port authorities work together for development and management of a new container terminal. In 2008, a Joint Project Office was created to manage the development until a joint authority could be created, and the site was acquired from the Georgia Department Of Transportation (who owned it even though it was in South Carolina). IGAs have been created by the two port agencies to cover the costs of studies and planning, coordinated through the Joint Project Office, with the intent that responsibility would be turned over to the bi-state authority at the time of its inception. The Georgia and South Carolina Port Authorities would continue to operate their other facilities independently of each other, and would share only in the development and operation of this terminal.





Although the governors signed a Memorandum of Understanding, the two state legislatures have not approved an Interstate Compact, nor has there been any federal action. Attempts were originally planned for the 2011 legislature, and newspaper articles indicated that the process to set up the joint authority and plan for the terminal were estimated at five to six years. However, additional delay was caused due to disagreements over the Army Corp of Engineer's dredging plan. As part of the agreement, the two states need to resolve an issue of where to place Savannah River dredge spoils, which historically have gone on the site of the Jasper terminal where there is an easement for this placement. The two port agencies have been working out details to deepen the river from 42 to 48 feet, but appear to still be negotiating dredging issues, which have caused delays in lifting the easement on the site. In early 2011 it appeared that that development negotiations reached an impasse. Without a resolution to the dredging issues, funding for the project slowed in 2011. In early 2011, South Carolina lawmakers passed a resolution to oppose a plan to deepen the Savannah River if it didn't provide economic benefits to both states, citing the intended use of the Jasper land for dredge disposal. The Georgia Ports Authority still states that it hopes to be able to begin permitting processes in 2012, with an anticipated release of the easements to run with the completion of the permitting process in 2019. However, the South Carolina Port Authority claims that using the site for dredge deposits from the river deepening will put the site out of commission for a longer time frame.

The Georgia and South Carolina Ports Authority have long actively competed against each other and trust between the states will need to be regained for this project to move forward. Some question the need for additional container terminals with the current lax economy. Both Charleston and Savannah operate their own container terminals. However, it appears that negotiations started up again in July, 2011. The Joint Project Office re-started its meetings, additional funding has been provided, and discussions include how to use the dredge materials to build up the Jasper site. For the development to be operational within the decade, additional cooperation will be needed, so that both legislatures can ratify the agreements necessary to create a Joint Port district, with the final approval made by the U.S. Congress.

#### *Columbia River Crossing – A potential model*

It was suggested by some members of the West Hayden Island Advisory Committee, that staff explore the mechanisms undertaken by the Columbia River Crossing (CRC) in coordinating this bi-state project. The hope is that a similar mechanism could be put in place between the Ports of Vancouver and Portland for port development and/or that a future CRC agency could be involved in coordinating WHI port development.

Responsibility for the existing bridges is technically handled by each state's Department of Transportation (DOT) up to the state line. However, both ODOT and WSDOT have engaged in IGAs to specify responsibility for operations and maintenance projects to one state or the other, with agreements for splitting the costs of these projects. Currently for the CRC, there are several agreements crossing state lines that address various aspects of the project, such as coordinating the NEPA process. Current planning is overseen by the Project Sponsors Council, which is a bi-state council authorized by both governors. The project is working to determine the mechanisms and structure for delivering the project and managing tolling. The form of, or path to, this structure has not been determined at this time, and could take the form of a specific set of agreements or a separate bridge authority. Unfortunately, there is no current model to reference, but this project may be worth watching in the future.





### *Joint Port Authorities – Final Thoughts*

There are very few bi-state joint port authorities, and those that exist seem to have formed either to address ongoing strife between separate agencies that affected their efficiency, or they have been formed because the actual project touches on both states, such as those involving bridge construction spanning two states. Once formed, the two authorities reviewed appear to have been successful of addressing their original issues. These examples appear to be political acts instigated by public officials to complete the projects, or to resolve legal disputes. Once formed, it appears that the two current joint authorities have resolved some of the coordinating issues and disputes that were the basis of the original problem. However, the ongoing issues involved in the formation of the joint port on the Savannah River indicate that the largest hurdle is developing unanimity of support for its formation.

In the case of Portland and Vancouver, current IGA's illustrate that the two ports both coordinate parts of their operations as well as manage their ongoing competition for new clients. We have not seen claims that the ports have been inefficient in their operations and need to be joined to improve operations. Legislative proposals to consider merging port operations attempted in the past 40-50 years have not received enough political support to achieve passage. In the absence of a bi-state construction project, a substantial legal dispute, or some major economic inefficiency, it may be difficult for a proposal to merge the ports' functions to gain the public and political traction needed to bring about the required local, state and federal approvals. The only specific proposal concerning merged port authorities to be brought to our attention is to use the joint authority to coordinate development efforts and consider the phasing of development of West Hayden Island. This type of planning could benefit one state's economic health over another and may not have the political support to back the proposal.

If the two ports were to move toward a joint authority without coercion, they would need to recognize some existing structural issues, and see a clear benefit in forming a partnership. This has not occurred, and no serious proposals have been put forward to form such a partnership. The ports would also need the support of the adjoining regions and states. The group would first need to coordinate the two port's agreements for marketing, operations and maintenance, revenue and cost sharing, and administration. A plan would need to be created to delineate how the two port commissions and their decision structures would be combined, as each of their structures is considerably different. This could create friction between the two commissions, since one set of commissioners is elected locally while the other is appointed by the state. Both sets of state rules (Oregon's Revised Statutes [ORS] and Washington's Revised Code of Washington [RCW]) would need to be revised since they provide specific operating rules for the Oregon and Washington Ports, and in the case of Oregon, a specific section on the Port of Portland. It is possible that a new section would need to be written in both state's codes, and voted on by the state legislatures. Along with coordinating the rules at the state level, the two states would also have to agree on an Interstate Compact. This compact would need to be approved through a federal legislative process in the US Congress in order to make the joint authority official. The only recent history of this process is the work being done to build a terminal jointly between the states of Georgia and South Carolina. This process, begun in 2007 has not cleared either state legislature at this point, and is still tied in negotiations. It seems that any legislative attempt to create a joint port in this region would likely need to be mutually beneficial to each port in order to get joint state support. It's also not clear if a merged port would have any impact on the phasing of port development between the two ports, although it would result in a combined port master planning process.





A joint authority formed among the Lower Columbia ports on the Oregon side may be easier to do under current Oregon Statute. However, a joint port authority on the Oregon side would be dominated by the Port of Portland, and wouldn't necessarily provide much benefit to the economic development plans of Astoria and St Helens. Also, their vacant lands don't have the access to the transportation infrastructure provided by lands in the Portland harbor and may not be attractive for modern marine terminals. It may be more feasible to coordinate these ports through an IGA process.

### Conclusion

There are several ways that the Ports of Portland and Vancouver currently coordinate their operations and marketing through Intergovernmental Agreements (IGAs). These agreements have been increasing and have helped the two ports to share certain resources and coordinate marketing efforts, which may benefit the region overall. There is also competition between these ports to attract new business. Both of these ports are important economic engines for the regions, and their respective states. This economic importance and competition is acknowledged through each state's regulations and growth management rules which require that each region's growth be satisfied within the respective state. Although there have been attempts over the last 40-50 years to consider ways to combine these ports (and potentially all the ports of the Lower Columbia River), there is no current political attempt to join the ports. Since the ultimate decision to form a bi-state port authority is a political decision eventually requiring federal approval, there would need to be many layers of support generated at the local and state level, before this type of proposal would have traction. On a broader scale, a similar effort would also be needed to amend the regional and state regulations to have regional planning of all kinds cross state lines.





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