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Washington State Should Expand Policy Preparations Now For Responding to Effects of Climate Change, Start Adjusting Laws and Policies, Says CPR Report

State Is Already a Leader in Assessing Future Climate Impacts; Report Recommends How Authorities Can Move Forward with Planning

(Washington) – With climate change under way, and little action from the federal government on the horizon, policymakers at the state, tribal, and local levels should lay the legal and policy foundation now for responding to the effects of climate change on the Puget Sound Basin, says a new paper from legal scholars with the Center for Progressive Reform (CPR). The paper recommends new types of laws and applications of existing laws, as well as development and conservation planning policies, to help establish a framework for effective responses to a changing environment.

"Preparing for the impacts of climate change in no way lessens the urgency of reducing, or 'mitigating,' carbon emissions," said CPR Member Scholar Robert Glicksman, a professor of law at George Washington University and co-author of the report. "But because some impacts of climate change are already under way and cannot be prevented, we also need to think about adapting to climate change. That means identifying vulnerabilities and assessing the possibilities for adaptation now."

"It will be important to enhance the resilience of our natural systems so we can continue to rely on them," said Glicksman's co-author, CPR Member Scholar Catherine O'Neill, a professor of law at Seattle University "For example, such 'green' infrastructure as intact forests, shorelines, and wetlands can provide natural buffers against climate-induced perturbations. Decisions that we make today can enlist these low-cost, natural buffers. But our decisions can also be 'maladaptive' – that is, they might deliver short-term benefits or economic gains, but increase our vulnerability to climate change impacts in the medium- to long-term, whether by foreclosing adaptation options or undermining mitigation efforts. We need careful, deliberative attention to our laws and policies now, so that our responses aren't frantic, disorganized, and potentially maladaptive. The longer we wait to adopt a framework and laws for adapting to climate change, the more costly and difficult the process will be."

Washington State is a leader in addressing climate change, recognizing the need both to assess the likely impacts of climate change and to identify and implement adaptation strategies. A landmark 2009 report by the Climate Impacts Group assessed a range of predicted impacts for the state: the hydrologic cycle is expected to shift dramatically; spring snowmelt in the region will decline and in some areas disappear, replaced by an elevated winter runoff peak; coastal high water marks will gradually move up land, and there will be sudden, episodic changes to shorelines and coastlines. The ecological changes have a range of effects on humans: for example, changes in the hydrologic cycle are expected to impair the already dwindling salmon populations, with ripple effects for the

many Native American tribes that depend on salmon and have rights to take salmon, recognized by treaties with the United States.

Washington is in the early stages of identifying and assessing adaptation options to respond to the changes that have already begun and are expected to result from climate change. Some state agencies, tribal governments, counties, and municipalities have already begun adaptation initiatives.

The CPR report aims to provide policymakers, advocates, and the public in the Puget Sound Basin with approaches to adapting to the impacts of climate change, both by using existing laws and designing new legislation. The report argues that facing tough policy questions now and laying the foundation for responding to climate impacts will be most environmentally protective, efficient, and socially equitable.

The authors offer numerous recommendations for action by policymakers at various levels. The recommendations include:

- **Allow for principled flexibility.** Traditional environmental laws are generally based on preservation and restoration, essentially trying to keep nature close to a historical baseline. That legal framework will need to evolve when new realities make trying to return to previous conditions ineffective or impossible. Therefore, state agencies and local governments should be given flexibility under the law to prepare for a changing climate and to act in the face of uncertainty about specific climate change impacts. But the laws should also make them accountable to the public when implementing adaptation actions.
- **Prioritize social equity.** Although disasters themselves can be “social equalizers” that are blind to race, creed, and color, long-term recovery efforts are nearly always accompanied by patterns of unfair social distribution. As communities select adaptation strategies and Washington revises its laws, both must ensure that these strategies and laws pay special attention to the poor and marginalized during both disaster and recovery. Additionally, in allocating water rights, the state should establish criteria or guidance to determine what proposed uses are “not detrimental to the public interest” in light of climate change impacts on the hydrologic cycle.
- **Increase resilience.** Resilience is the ability of a community or ecosystem to absorb changes and return to normal functions. The stronger the baseline health of these systems, the better able they are to absorb disruptive climate changes. Policy makers should use Washington's existing Growth Management Act and Shoreline Management Act to identify vulnerable areas and plan for future coastal land use, refining local building codes to increase the resilience of built infrastructure. Coastal communities and Tribes around the Puget Sound should adopt coastal resilience plans that identify how to enhance the resilience of shorelines, prioritizing where possible the restoration of natural features to serve as buffers.
- **Plan for disasters.** Communities in the Puget Sound region should undertake thorough reviews of their existing abilities to respond to and recover from disasters and the episodic but severe weather events caused by climate change. Planners should project future risks and make recovery plans that include transitioning toward a more adaptive environment.

The report goes on to highlight a number of specific objectives of a sound adaptation strategy, including adapting to changing hydrologic cycles in ways that ensure water will be available where

it is most needed; adapting to sea level rise through approaches that include “managed retreat;” adoption of coastal “resilience” plans that assess location-specific options; and adapting to increased temperatures by assessing the likely impact on localized natural disasters and air quality.

The report, *Climate Change and the Puget Sound: Building the Legal Framework for Adaptation*, was written by CPR Member Scholars Robert L. Glicksman and Catherine O’Neill, and CPR Policy Analyst Yee Huang; and CPR Member Scholars William L. Andreen, Robin Kundis Craig, Victor Flatt, William Funk, Dale Goble, Alice Kaswan, and Robert R.M. Verchick. It is available online at: http://www.progressivereform.org/articles/Puget_Sound_Adaptation_1108.pdf

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