



**Pre-Application Conference Report**  
**For**  
**Plan Amendment to Consolidate Management Plan and Revisions**  
**(PA-06-05)**  
October 2, 2006

## **I. Introduction**

Pursuant to Commission Rule 350-50-045, Commission staff held a pre-application conference to discuss a potential plan amendment on September 26, 2006. This report summarizes the discussion at the conference and identifies issues of concern with the proposed amendment and potential issues to add to the proposed amendment.

The Columbia River Gorge Commission and the USDA Forest Service, Scenic Area Office have proposed to consolidate the *Management Plan for the Columbia River Gorge National Scenic Area* (1992) and *Revisions to the Management Plan* adopted in 2004 into one document; make typographical and grammatical corrections; make cross-reference corrections; revise outdated non-regulatory text and procedures; reorganize text; make text clarifications; and correct oversights. The proposal would require amending the Management Plan for the Columbia River Gorge National Scenic Area.

Development Review Officer Brian Litt provided an overview of the purposes of the meeting and asked for introductions of people present. Present at the meeting were: Brett VandenHeuvel representing Friends of the Columbia Gorge; Virginia Kelly, USDA Forest Service Scenic Area Office; and Jennifer Ball Kaden and Brian Litt of Gorge Commission staff.

## **II. Meeting Goals and Plan Amendment Criteria**

The goal of a pre-application conference is to: identify issues that concern the Commission, other agencies, and interested persons; identify practicable alternatives; identify possible conditions of approval; determine what information is necessary for review of the application; and provide an estimated schedule for considering the application. This meeting focused primarily on one area: issues of concern. Mr. Litt noted that the Executive Director determined this will be a legislative plan amendment.

Planner Jennifer Ball Kaden summarized the history of the proposed plan amendment. In 2004, the Gorge Commission adopted *Revisions to the Management Plan* (Revisions) pursuant to a review of the Management Plan required by Scenic Area Act [§544d Sec. 6(g)]. Currently, the original Management Plan (1992) is in one document and the Revisions are in another. In trying to incorporate the Revisions into the original Management Plan, staff became aware of a number of cross-reference errors, outdated

non-regulatory language, outdated or obsolete tables, errors, and oversights that needed to be corrected in order to produce an up-to-date, user friendly consolidated document. Most of the proposed changes are of a housekeeping nature that can be done without review by the Gorge Commission. Some changes, while minor, are substantive in nature and require review by the Gorge Commission (and concurrence by the Secretary of Agriculture) in the form of a Plan Amendment.

The criteria against which amendments to the Management Plan are reviewed (Commission Rule 350-50-030) were described. The rule reads:

*The Commission must find the following criteria are satisfied before it approves an amendment to the Management Plan:*

- (1) *Conditions in the Scenic Area have significantly changed. This means:*
  - (a) *Physical changes that have widespread or major impacts to the landforms, resources, or land use patterns in the Scenic Area;*
  - (b) *new information or inventory data regarding land uses or resources that could result in a change of a plan designation, classification, or other plan provision;*
  - (c) *changes in the legal, social, or economic conditions, including those that affect public health, safety, or welfare, not anticipated in the Management Plan; or*
  - (d) *a demonstrable mistake in the Management Plan that has resulted in significant impacts or that involve significant issues, such as, but not limited to, a land use guideline that is less protective of Gorge resources than the policies the guideline was intended to implement; a land use designation that does not conform to the corresponding designation policies; or two or more guidelines that cannot be reasonably reconciled.*
- (2) *The proposed amendment is consistent with the purposes and standards of the Scenic Area Act; and,*
- (3) *No practicable alternative to the proposed amendment more consistent with the purposes and standards of the Scenic Area Act exists.*

A copy of Commission Rule 350-50-030 and the purposes and standards of the Scenic Area Act was provided to the attendee of the meeting. Ms. Kaden identified that the action of plan review and adoption of the Revisions is the change in legal conditions that constitutes a significant change consistent with Commission Rule 350-50-030(1). The change in legal conditions triggered the need to create one consolidated, up-to-date Management Plan document. Ms. Kaden noted that the proposed changes do not change current policies of the Management Plan (which already have been determined to be consistent with the Scenic Area Act) and, therefore, would continue to be consistent with the purposes and standards of the Scenic Area Act. Ms. Kaden also noted that no practicable alternative to the proposed plan amendment has been identified.

### **III. Issues of Concern Related to Proposed Changes**

Ms. Kaden and Ms. Kelly summarized some of the more significant proposed changes included in the proposed plan amendment. Those items include:

1. *Introductions* (revise outdated non-regulatory text): Remove historical background as not necessary; update language to reflect changes in the Scenic Area (e.g. population figures; summary of plan review)
2. *Agriculture-Special* (correct oversight & reorganize): This proposal would move the Agriculture-Special policies and guidelines to the Agricultural Land chapter in Part II – Land Use Designations. In addition, the revisions propose to add most of the expedited review uses and four review uses, such as lot line adjustments, to the Agriculture-Special land use designation consistent with the *2004 Revisions to the Management Plan*.
3. *Pesticide Use* (correct oversight): The revisions propose to include “Pesticide use, subject to county, state, and federal regulations” as a new Use Allowed Outright. In the GMA, pesticide use has never been something regulated by the Management Plan. In the SMA, the revision would be consistent with SMA Natural Resource Wildlife and Plant Policy 4.
4. *Definition of “Maintenance”* (reconcile conflicting guidelines): Virginia Kelly said the Forest Service proposes to clarify the definition of “maintenance” in the SMA to exclude vegetation management in the portions of right-of-way which are not previously disturbed and regularly maintained. As written, the maintenance definition could allow forest practices in the SMA without NSA review. She said she had spoken with representatives of two County road departments who requested specificity about where the line is drawn for “previously disturbed and regularly maintained” and requested to be able to include 10 feet from the road shoulder. Ms. Kelly noted that she planned to work on the specific language to try to address the concerns of road departments and utility representatives.
5. *Natural Resource Tables 5, 6, 8 and 9* (omit unnecessary tables): These tables from the original Management Plan list endangered, threatened, and sensitive wildlife species and rare plant species in Oregon and Washington. The information in these lists changes over time. The definitions of “sensitive wildlife species” and “sensitive plant species” incorporate the appropriate species listed by state agencies by reference, so the tables are unnecessary, as well as outdated.
6. *Recreation Development Plan* (reorganize): The Recreation Development Plan in Part III, Chapter 3 includes a list of recreation projects in the GMA and SMA. Similar to some of the tables in the Natural Resources chapter, the recreation project proposals are outdated. For example, it does not include projects such as Balfour-Klickitat that received federal funding separate from Scenic Area funds. The policies by which a set of recreation projects should be reviewed are important considerations that fit in the regulatory document. The project list, however, could be adopted separately by the Commission so it can be updated more easily. That is what staff is proposing in this plan amendment.

Brett VandenHeuvel identified concerns of Friends of the Columbia Gorge regarding two of these issues. First, he questioned the addition of pesticide use as a use allowed outright. He asked whether it would include aerial applications and whether it included both herbicides and pesticides. Ms. Kelly confirmed that aerial applications, herbicides and pesticides would be included. Mr. VandenHeuvel said his concern is particularly in the SMA because he thought it would be included as a forest practice

in the GMA and, therefore, already considered a use allowed outright. Forest practices are regulated in the SMA and he said the concern was that pesticide use is not always consistent with resource protection and it may not be consistent with the Scenic Area Act to add it as a use allowed outright. Virginia Kelly clarified that pesticide use is not always considered a forest practice, such as when it is used in an agricultural context. Ms. Kelly and Ms. Kaden said the proposal was to clarify what has been the practice in the Scenic Area for 20 years. Ms. Kelly identified a SMA policy that states “County, state, and federal regulations for air and water quality and for pesticide use shall be followed” and said the proposed additional use allowed outright is to make clear what already is intended by existing policy. Mr. VandenHeuvel added a concern that including pesticide use as a use allowed outright was too broad-brush in part because state laws regarding pesticide use are not very restrictive.

The second concern raised by Mr. VandenHeuvel related to the proposed deletion of Natural Resource Tables 5, 6, 8 and 9. Mr. VandenHeuvel said that Friends of the Gorge is concerned that the removal of these tables will make it difficult for landowners and County planners to easily identify wildlife and plant species that are regulated by the Management Plan. He did not disagree that the lists change over time and become outdated, but wanted the Gorge Commission and Forest Service to consider providing a central list of plant and wildlife species that the Management Plan protects and that occur in the Gorge. Ms. Kaden noted that the specific lists are maintained by various state agencies. Mr. Litt suggested that the Gorge Commission consider adding the specific state agency names to the Management Plan text. Ms. Kelly noted that the Forest Service maintains a list of species for the SMA. Ms. Kelly and Ms. Kaden suggested that the Forest Service list could be made available to landowners and County planners via the Gorge Commission website. Mr. VandenHeuvel thought that the two ideas (adding agency names to the Management Plan text and providing a species list on a website) may address the concern of Friends of the Gorge.

Ms. Kaden asked Mr. VandenHeuvel if there were additional concerns related to items not identified in her summary. Mr. VandenHeuvel said the Friends of the Gorge had two additional concerns with the proposed changes. First, he said that Nathan Baker of Friends of the Gorge has found the background information included in the main introduction of the Management Plan to be helpful for providing regulatory history. Ms. Kaden asked whether Mr. VandenHeuvel could provide specific citations that the Friends of the Gorge thought were necessary to provide useful context for existing regulations. Mr. VandenHeuvel agreed to provide that.

Second, Mr. VandenHeuvel said that Friends of the Gorge uses Tables 1 and 2 of the Management Plan often. He asked whether Table 2 could be updated. Ms. Kelly said that the acreages included in Table 2 were outdated primarily due to land use designation changes made pursuant to Section 8(o) and that there shouldn't be significant changes to the acreages in the future. Ms. Kelly said she would consider whether it was possible to update Table 2. Mr. VandenHeuvel thought that Table 2 was more important to keep than Table 1.

#### **IV. Issues of Concern – Items Not Included in Proposed Changes**

Mr. VandenHeuvel provided a list of items the Friends of the Gorge want the Gorge Commission and Forest Service to consider including in the proposed plan amendment as oversights, mistakes, or inadvertent omissions from the Revisions. Those items are:

1. Rules for farm labor dwellings in the Special Management Areas (RMP II-17) should require a 40-acre minimum parcel (as do the rules for SMA temporary hardship dwellings (RMP II-19) and SMA farm dwellings (RMP II-16--II-17)). The Act prohibits new dwellings on parcels smaller than 40 acres in the SMAs. This change would correct an oversight by more directly incorporating the Act.

2. SMA Recreation Intensity Class 2 Guideline #2.C(1) (RMP I-104) should expressly prohibit RV campgrounds for SMA RIC 2 zones (as do the rules for GMA RIC 2 zones (see OMP I-160)). As written, the SMA guideline allows "campgrounds with vehicle access." This should be tightened up to expressly prohibit RV access. RIC 2 areas are zoned for semi-primitive use, and RV campgrounds don't qualify.

3. Farm labor dwelling standards on GMA Large-Scale Agriculture (RMP II-8--II-9) and GMA Commercial Forest lands (RMP II-29) should incorporate the \$40,000 income test (as do the SMA farm labor dwelling standards (e.g., RMP II-17) and the agricultural operator's relative dwelling rules (RMP II-8, II-28)). Correcting this oversight will ensure that only commercial farms are entitled to extra dwellings when all criteria are met.

4. The GMA requirement that "new buildings and roads shall be sited and designed to . . . reduce necessary grading to the maximum extent practicable" should also apply in the SMA. RMP I-2 (GMA guideline #1). There is no corresponding requirement in the SMA. This was likely an oversight because the SMA receives greater protection than the GMA.

5. The GMA approval criteria for review uses in aquatic and riparian areas includes the public interest test. RMP I-57. In the corresponding criteria for SMA, the public interest test is not a factor. This was likely an oversight because the SMA receives greater protection than the GMA so the public interest test should apply.

6. Various cross-references to federal law in the Cultural Resources Chapter are outdated and should be updated. For example, Michael Boynton, former Forest Service NSA archaeologist, raised the following points about six years ago regarding pages I-73 and I-74 of the Original Management Plan. All of the current cross-references are outdated and no longer make sense as written.

- In Part A, the reference to 36 C.F.R. § 800.9 should be changed to 36 C.F.R. § 800.5
- In Part B, the reference to 36 C.F.R. § 800.5(e) should be changed to 36 C.F.R. § 800.11(e)
- In Part C, the reference to 36 C.F.R. § 800.9(b) should be changed to 36 C.F.R. § 800.5(a)(1)
- In Part C, the reference to 36 C.F.R. § 800.5(e) should be changed to 36 C.F.R. § 800.11(e)
- In Part D, the reference to 36 C.F.R. § 800.8 should be changed to 36 C.F.R. § 800.11

The group discussed each item briefly. Ms. Kelly and Ms. Kaden noted that the scope of the plan amendment is to include oversights or mistakes that are not considered new policy. Proposed items 1 through 5 would be evaluated by Gorge Commission staff and Forest Service staff on that basis. They

also noted the intent to update all outdated cross references to the C.F.R.s in the cultural resource chapter (consistent with proposed item #6).

Ms. Kaden summarized two items inadvertently left off of the draft list of changes available on the Gorge Commission website that will be included in the proposed plan amendment. One relates to the definition of “restoration” added by Plan Amendment PA-97-03 which is no longer needed in the Management Plan. The other relates to an enhancement strategy about air quality that needs to be included pursuant to Plan Amendment-99-05.

Ms. Kaden added that two issues for potential inclusion in the plan amendment have been raised in a public comment. The first item is to clarify that fence posts, along with the woven-wire, are required to be brown or black for woven-wire fences approved through the expedited review process. The second item is to add a definition of “retaining wall.” Ms. Kaden noted that these items also would be evaluated to determine whether they fit the scope of the proposed plan amendment.

Ms. Kaden asked whether Friends of the Gorge had identified any concerns related to the plan amendment criteria. Mr. VandenHeuvel stated it had not.

#### **V. Information to Include in Application**

Commission and Forest Service staff said they would evaluate whether to include each of the additional items suggested by Friends of the Gorge prior to sending out the public comment notice for the Plan Amendment.

#### **VI. Next Steps**

Ms. Kaden said the proposed schedule for the plan amendment is to issue a pre-application report no later than October 10, 2006 and to send the proposed amendment out for public comment as soon as possible after the report is issued. She said the goal is to schedule a public hearing on the amendment at the December 12, 2006 Gorge Commission meeting.