

## DEVELOPMENT REVIEW

### Director's Decision

**APPLICANT:** Don Cannard of the Chinook Trail Association on behalf of Aubrey Russell

**FILE NO.:** C07-0008-K-G-20

**REQUEST:** Relocate the trailhead and re-route a portion of the Cherry Orchard Trail to decrease the overall grade and prevent future erosion problems.

**LOCATION:** The existing trail traverses several parcels located just east of Lyle, WA. The proposed enhancements would be occurring on two contiguous parcels; numbers 02-12-0200-0005/00 and 02-12-0200-0010/00 in the SW ¼ of Section 2, Township 2 North, Range 12 East, Willamette Meridian, Klickitat County, Washington.

### LAND USE

**DESIGNATION:** Both parcels are designated GMA Small-Scale Agriculture.

### DECISION:

Based upon the following findings of fact, the land use application by Don Cannard of the Chinook Trail Association to re-route a portion of the Cherry Orchard Trail is consistent with the standards of Section 6 and the purposes of the Columbia River Gorge National Scenic Area Act (Public Law 99-663), and the Management Plan for the Columbia River National Scenic Area (Management Plan), and approvable under Commission Rule 350-81 and is hereby approved.

### CONDITIONS OF APPROVAL:

The following conditions of approval ensure that the subject request is consistent with the standards of Section 6 and the purposes of the P.L. 99-663, and the Management Plan and approvable under Commission Rule 350-81. **These conditions must be recorded in county deeds and records to ensure notice of the conditions to successors in interest** (Management Plan, Review Uses Guideline 1, pg. II-7-58).

1. The re-routed portions of the trail shall be sited and constructed as shown on the approved site plan. If changes to the location or design of the trail are proposed, a revised site plan shall be submitted to the Planning Manager for review and approval.

2. To prevent erosion and other natural and scenic resource impacts from trail cutting between the new trail and old trail, the old trail segments shall be closed and revegetated where possible with native grass species (see attached list or recommended species) within six months of the trail modifications.
3. Except as necessary to ensure public safety, existing trees providing screening to the proposed trailhead and lower portion of the rerouted trail segment shall be retained to ensure visual subordination of the trail when viewed from Key Viewing Areas.

Plans for any future vegetation management practices involving removal of screening trees shall be submitted for review and approval by the Planning Manager prior to vegetation removal. This does not include routine trail maintenance or the removal of fallen trees or limbs.

4. Prior to trail modifications, the landowner shall sign and record a declaration with the Klickitat County Auditor's office specifying that the project applicant is aware that nearby operators are entitled to carry on accepted forest or farm practices on lands designated Large-Scale or Small-Scale Agriculture or Small Woodland (Commission Rule 350-81-610(5)(c)(B)).
5. Pursuant to Commission Rule 350-81-520(2)(p) any new exterior lighting shall be submitted for review and approved by the Planning Manager prior to installation.
6. Pursuant to Commission Rule 350-81-570(6)(f) it is the responsibility of the applicant to meet all other applicable federal, state and county laws. The applicant shall contact the Klickitat County Planning and Building Departments and the Washington State Department of Ecology and obtain any permits necessary from those agencies prior to commencing the work authorized by this approval.
7. If cultural resources are discovered during construction, all construction activities within 100 feet of the cultural resources shall cease and the applicants shall notify the Gorge Commission within 24 hours. The cultural resources shall remain as found; further disturbance is prohibited until permission is granted by the Planning Manager of the Gorge Commission.
8. If human remains are discovered during construction, all survey, excavation and construction activities shall cease and the applicants shall notify local law enforcement, the Commission and Indian Tribal governments immediately. The human remains shall not be disturbed any farther until permission is granted by the Planning Manager of the Gorge Commission.
9. Pursuant to Trails and Pathways Policy 7 of the Management Plan [page 1-4-11], the use of motorized vehicles on designated public use trails shall be prohibited, except for use by response agencies and their agents in an emergency.

DATED AND SIGNED THIS 3rd day of November, 2008, at White Salmon, Washington.



Brian Litt  
Planning Manager

**EXPIRATIONS OF APPROVALS:**

*This decision of the Planning Manager becomes void on the 3rd day of November, 2010.*

As per Commission Rule 350-81-044(6), an extension of the validity of a development approval may be requested. Such a request shall be submitted in writing prior to the expiration of the approval. The Planning Manager may grant an extension if it is determined that conditions, for which the applicant was not responsible, would prevent the applicant from commencing the proposed development within the original time limitation. The Planning Manager shall not grant an extension if the site characteristics and/or new information indicate that the proposed use may adversely affect the scenic, cultural, natural or recreation resources in the National Scenic Area.

**APPEAL PROCESS:**

*The appeal period ends the 3rd day of December, 2008.*

The decision of the Planning Manager shall be final unless a Notice of Intent to Appeal and Petition is filed with the Commission within thirty (30) days of the date of this decision by the applicant or any person who submitted comment. Information on the appeal process may be obtained at the Commission office.

**NOTES:**

Any new land uses or structural development not included in the approved application or site plan will require a new application and review.

**COMMENTS FROM OTHER INDIVIDUALS/AGENCIES/GOVERNMENTS:**

Notice of the subject request was mailed to property owners within 200 feet of the subject parcel and the following individuals/agencies/governments:

- Yakama Nation
- Confederated Tribes of the Umatilla Indian Reservation
- Confederated Tribes of Warm Springs Reservation of Oregon
- Nez Perce Tribe
- U.S. Forest Service National Scenic Area Office
- Washington Office of Archaeology and Historic Preservation
- Klickitat County Planning Department
- Klickitat County Building Department
- Klickitat County Health Department
- Klickitat County Assessor
- Friends of the Columbia River Gorge

Written comments were received from Mo-Chi Lindblad of the Klickitat County Planning Department; Rick Till, Friends of the Columbia Gorge; Marge Dryden, Heritage Program Manager for the USDA Forest Service Scenic Area Office; Sandy Swope Moody, Natural Heritage Program; Bill Weiler and David Anderson, Washington Department of Fish and Wildlife; Johnson Meninick, Manager of the Cultural Resource Program for the Confederated Tribes and Bands of the Yakama Nation; and Robert Whitlam, State Archaeologist for the Department of Archaeology and Historic Preservation.

## FINDINGS OF FACT:

### A. Land Use

1. The subject trail, known as the Cherry Orchard Trail, is in the General Management Area and passes through three land use designations including Small-Scale Agriculture, Small-Woodland and Large-Scale Agriculture. The proposed re-route areas are all located within the Small-Scale Agriculture portion of the trail.
2. The existing trailhead and user parking occurs in the wide shoulder along the north side of State Route 14. From the highway, the trail follows a seasonal drainage depression northwest, up a steep slope to a level area in the center. The existing trail then continues northwest and follows the ridge line behind a large outcrop of basalt. From that point it then turns east away from the cliffs where it terminates at an old cherry orchard.
3. The Cherry Orchard Trail was informally constructed in 1992 and through a Commission enforcement action, was legalized in Director's Decision C95-0044-K-G-20. This initial review included the reconstruction of portions of the 1.6 mile trail and the placement of a fence to delineate a property line crossed by the trail. Later, Director's Decision C98-0002-K-G-20 approved additional improvements including the installation of signs, reconstruction of a fence stile; constructing a new fence to allow passage to hikers while discouraging cattle; constructing timber and rock structures to stabilize the trail; constructing drainage features; and the re-routing and re-grading of several sections of the trail to reduce grades and correct erosion problems.
4. Commission Rule 350-81-082(4)(a) states:

*Except as otherwise provided, any change to an existing use or modification to the exterior of an existing structure shall be subject to review and approval pursuant to Commission Rule 350-81.*
5. In this present application, the applicant has proposed to re-route portions of the trail (including the trailhead) between the trailhead and a large basalt rock outcrop (a total of approximately 4,500 linear feet) to reduce the overall grade from 30% to one between eight and 16%. The proposed reroute is intended to prevent future erosion problems and create a less difficult hike for trail users. The altered trail would measure 28 inches wide and would require approximately 85 cubic yards of soil displacement. The applicant has also requested to remove a barbed wire fence near the existing trailhead.
6. Commission Rule 350-81-020(47) defines "development" as follows:

*Any land division or structure, including but not limited to new construction of buildings and structures, and mining, dredging, filling, grading, paving and excavation.*
7. Commission Rule 350-81-200(1)(j) allows recreation development on parcels designated Large-Scale or Small-Scale Agriculture subject to Commission Rule 350-81-220, the recreation intensity class provisions (350-81-610), the Recreation Development Plan

(Management Plan, Part III, Chapter 1) and Commission Rules 350-81-520 through 620 for the protection of scenic, natural, cultural and recreation resources.

Compliance with the recreation intensity class provisions (350-81-610) and the Recreation Development Plan (Management Plan, Part III, Chapter 1) are discussed in Section E of this decision.

8. Commission Rule 350-81-220 contains criteria for land uses on lands designated Large-Scale and Small-Scale Agriculture. It states:

- a) The use is compatible with agricultural uses and would not force a change in or significantly increase the cost of accepted agricultural practices on nearby lands devoted to an agricultural use.*

The subject trail passes through an area characterized by steep slopes. According to the Klickitat County Assessor's maps, most of the surrounding lands is either owned by the subject landowner or public entities. The only agricultural activity taking place in the vicinity is seasonal grazing of cattle on one adjacent property. The trail has been established since 1992 and has been used for hiking since then. The proposed improvements would not change the character of the existing use. Therefore, the proposed trail improvements would not force a change in, or significantly increase the cost of agricultural practices on nearby lands devoted to an agricultural use, consistent with Commission Rule 350-81-220(a).

- b) The use will be sited to minimize the loss of land suitable for the production of crops or livestock.*

The existing trail travels through a small valley formed by seasonal drainage. Proposed modifications include two large switchbacks in which the new trail segments would be farther from the existing trail. At the greatest distance, the switchback in the upper portion of the trail would be approximately 475 feet east of the existing trail. At the greatest distance, the switchback in the lower portion would be about 600 feet east of the existing trail. Because the proposed modifications will replace existing trail segments (replaced portions will be closed and reseeded), and there is no net increase in the size or length of the trail itself, the proposed modifications would not result in the loss of land suitable for agriculture, consistent with Commission Rule 350-81-220(b).

Conclusion:

The proposed trail re-route is an allowed review use subject to Commission Rules 350-81-520 through 350-81-620 that protect scenic, cultural, natural, and recreation resources.

## **B. Scenic Resources**

1. Commission Rule 350-81-520(1)(a) and (b) contain scenic resource protection guidelines for new buildings and roads. No new buildings or roads were proposed as part of this application. Therefore Commission Rule 350-81-520(1)(a) and (b) do not apply to the proposed trail work.

2. Commission Rule 350-81-520(1)(c) states:

*Project applicants shall be responsible for the proper maintenance and survival of any planted vegetation required by the guidelines in this chapter.*

As explained in Finding B.5 below, a condition of approval will require the applicant to re-vegetate those portions of the existing trail to be modified with native grasses. A list of native and recommended grass species has been attached to this decision. With this condition of approval, the trail modifications would be consistent with Commission Rule 350-81-520(1)(c).

3. Commission Rule 350-81-520(2) contains guidelines that affect new buildings and structures that would be visible from Key Viewing Areas. As explained in Finding B.6 below, portions of the proposed trail would be topographically visible from five Key Viewing Areas including Washington State Route 14, the Columbia River, Interstate 84, the Historic Columbia River Highway, the Rowena Plateau and the Nature Conservancy Viewpoint. Therefore, guidelines of Commission Rule 350-81-520(2) apply to the proposed development.
4. Commission Rule 350-81-520(2)(b) requires new development to be visually subordinate to its setting when viewed from KVAs. Consistency with Commission Rule 350-81-520(2)(b) is discussed in Finding B. 5 through B.15 below.
5. Commission Rule 350-81-520(2)(c) states:

*Determination of potential visual effects and compliance with visual subordination policies shall include consideration of the cumulative effects of proposed developments.*

The parcels contain dramatic topography with steep basalt cliffs and large rock outcrops. They are vegetated with a mix of oak woodlands and various shrubs and grasses. The lower (southern) half of the trail is more densely forested than the upper (northern) half, which disperses into grasses, rocky outcrops and clusters of trees. The parcels' only existing development includes the trail, associated fencing and signs.

As proposed, the sections of trail to be rerouted follow more gradual topography resulting in less dramatic cut/fill banks as opposed to the existing trail which climbs more steeply through the valley. The re-routed portion begins approximately 100 feet east at a new trailhead that would be situated in the side of the parking area, less visible than the existing trailhead in the center of the parking area, and ends behind a cliff outcrop to the northwest. The applicant has proposed new trail segments that will measure approximately 28 inches wide and will not have any visible height other than occasional cut and fill banks. The site will be visible from KVAs but will receive some screening from existing vegetation.

To mitigate for any cumulative effects that could arise from trail cutting from the new, more gradual trail to the present, steeper trail, a condition of approval will require the

applicant to close and reseed the existing trail once the new trail segments are constructed and functional. A list of recommended grass seed mixes are attached to this decision. A condition of approval will also be included to retain the existing vegetation screening the trailhead and lower portions of the modified trail from the views in the foreground from SR 14 and the Columbia River. With conditions of approval to reseed closed trail segments and to retain existing screening vegetation, the proposed trail modifications would be visually subordinate with its surrounding landscape and will not create cumulative scenic resource impacts, consistent with Commission Rule 350-81-520(2)(c.)

6. Commission Rule 350-81-520(2)(d)(A) states:

*The extent and type of conditions applied to a proposed development to achieve visual subordination should be proportionate to its potential visual impacts as seen from Key Viewing Areas.*

- (A) *Decisions shall include written findings addressing the factors influencing potential visual impact, including but not limited to:*
- (i) *The amount of area of the building site exposed to key viewing areas.*
  - (ii) *The degree of existing vegetation providing screening.*
  - (iii) *The distance from the building site to the key viewing areas from which it is visible.*
  - (iv) *The number of key viewing areas from which it is visible.*
  - (v) *The linear distance along the key viewing areas from which the building site is visible (for linear key viewing areas, such as roads).*

*The number of Key Viewing Areas from which the site is visible.*

The site of the proposed trail modifications can be seen from a total of five Key Viewing Areas (KVAs) including: State Route 14 and the Columbia River in the foreground, Interstate 84, the Historic Columbia River Highway in the middle-ground, and the Rowena Plateau and Nature Conservancy Viewpoint in the background.

*The distance from the building site to the Key Viewing Areas from which it is visible.*

According to Commission maps, at the closest point from which it is visible, the trailhead is located approximately 100 feet from State Route 14; 250 feet from edge of the Columbia River; 1.2 miles from Interstate 84 when viewed from the east, 1.8 miles from the Historic Columbia River Highway to the west, and approximately 1.5 miles from the Rowena Plateau and Nature Conservancy Viewpoint to the southwest.

*The linear distance along the Key Viewing Areas from which the building site is visible.*

Several site visits by staff verified that large rocky hills on either side of the trail

provide effective topographic screening for the lower portion of the trail from most linear viewpoints to the east and west. The trailhead and lower portion of the trail would be topographically visible for approximately 0.2 miles while traveling on State Route 14 and the Columbia River (river view obtained using topographic maps). Although the hills screen most of the site from Interstate 84, it would be visible for brief moments while driving. The upper site is visible from the Historic Columbia River Highway, and the Rowena Plateau and Nature Conservancy viewpoint, both of which are stationary viewpoints.

*The degree of existing vegetation providing screening.*

The lower and middle portions of the trail are vegetated with a mix of oak woodland with shrubs and grasses. As one climbs higher in elevation, the vegetation thins to mostly grasses and poison oak with clusters of trees among rock outcrops. Existing vegetation provides some screening to the trail but portions would still be visible to KVAs. To prevent trail cutting between the new and old trail segments (which would result in a larger, more visible development) the old segments shall be closed and reseeded with a native grass mix. A condition of approval will be included in this decision to ensure revegetation.

*The amount of area of the building site exposed to Key Viewing Areas.*

As previously described, the site of the proposed modifications is intermittently visible from five KVAs. Topography screens the trail from the far west and east. This being said however, no topography exists between the trailhead and the edge of State Route 14 to the immediate south and in some places along the Columbia River and I-84. The upper portions of the modified trail would be topographically visible from the Historic Columbia River Highway, the Rowena Plateau and the Nature Conservancy Viewpoint. The lower portions of the modified trail and trailhead would be topographically visible when viewed in the foreground from SR 14 and the Columbia River. For a brief moment while traveling along I-84, the entire project site would be topographically visible.

In sum, the site is visible from five KVAs and is particularly visible in foreground of SR 14 and the Columbia River. Therefore, the size, height, shape, color, reflectivity, landscaping, siting, and other aspects of proposed development must be evaluated to ensure that such development is, to the maximum extent practicable, visually subordinate to its setting as seen from Key Viewing Areas.

7. Commission Rule 350-81-520(2)(d)(B) states:

*Conditions may be applied to various elements of proposed developments to ensure they are visually subordinate to their setting as seen from key viewing areas, including but not limited to:*

- (i) *Siting (location of development on the subject property, building orientation, and other elements).*

The trail was modified to follow more gradual topography to prevent erosion and decrease steep slopes. This modification would result in minimal cut and fill banks, thus it would be visually subordinate to its setting, consistent with this rule.

(ii) *Retention of existing vegetation.*

The trailhead and lower portion of the trail would be visible in the foreground of several KVAs. These areas are visually subordinate within the surrounding landscape because of the screening provided by existing vegetation. A condition of approval to retain the existing trees providing screening of the lower portions of the trail and trailhead will be included in this decision to ensure ongoing visual subordination, consistent with Commission Rule 350-81-520(2)(d)(B)(ii).

(iii) *Design (color, reflectivity, size, shape, height, architectural and design details and other elements).*

The proposed trail modifications do not include any support structures or bridges. The only visible development would be the new trail segments. As proposed the new trail segments would be 28 inches wide and would cover a total distance of approximately 4,500 linear feet. The trail would be more gradual in nature, would follow existing topography and would result in an overall less visible development. Given this information, the proposed trail modifications would be visually subordinate with its setting, consistent with this rule.

(iv) *New landscaping.*

No new vegetation is proposed as a part of this application. As previously discussed above, the trail segments that will be replaced shall be re-seeded with native grass species and the existing screening trees shall be retained.

8. Commission Rule 350-81-520(2)(e) states:

*New development shall be sited to achieve visual subordination from key viewing areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, sensitive plants, or sensitive wildlife sites or would conflict with guidelines to protect cultural resources. In such situations, development shall comply with this guideline to the maximum extent practicable.*

The proposed trail modifications were sited to follow existing topography lines and reduce future erosion. Since establishment in 1992, the trail has always followed an intermittent drainage depression. As explained in the Section D below, the trail has been sited to best achieve the protection of all scenic, natural, cultural, and recreation resources. Existing vegetation and topography provide sufficient screening, allowing the trail to be visually subordinate, consistent with this rule.

9. Commission Rule 350-81-520(2)(f) states:

*New development shall be sited using existing topography and/or existing vegetation as needed to achieve visual subordination from key viewing areas.*

As previously explained above, the proposed trail modifications have been sited using topography and existing vegetation to achieve visual subordination, consistent with this rule.

10. Commission Rule 350-81-520(2)(g) states:

*Existing tree cover screening proposed development from key viewing areas shall be retained as specified in the Landscape Settings Guidelines in 350-81-520(3).*

The trail begins in the foreground of State Route 14. As proposed, the new trailhead would occur in a less visible location than the existing trailhead, but would still be visible for a brief distance while traveling on SR 14. To ensure visual subordination, a condition of approval will be included in this decision to require the applicant to retain the existing tree cover near the proposed trailhead and lower portions of the trail, consistent with this rule.

11. Commission Rule 350-81-520(2)(j) contains guidelines for new landscaping needed to screen the proposed development from KVAs. With a condition of approval to retain the trees in the lower portions of the trail and near the trailhead, no new vegetation will be required in this decision for screening purposes. Therefore, Commission Rule 350-81-520(2)(j) does not apply.

12. Commission Rule 350-81-520(2)(p) states:

*Exterior lighting shall be directed downward and sited, hooded and shielded such that it is not highly visible from Key Viewing Areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.*

No new exterior lighting has been proposed in this application. A condition of approval will alert the applicant that any new or proposed lighting will have to be first approved by the Planning Manager prior to installation.

13. Commission Rule 350-81-520(2)(aa) requires all proposed structural development involving more than 200 cubic yards of grading on sites visible from KVAs to include a grading plan and specifies grading plan elements.

As proposed, approximately 85 cubic yards of grading will be required for the trail modifications. Therefore, grading plan requirements of Commission Rule 350-81-520(2)(aa) do not apply to the proposed development.

14. The Landscape Settings Map in the *Management Plan for the Columbia River Gorge National Scenic Area* classifies the subject parcel as Grassland. Commission Rule 350-81-520(3)(d) contains the applicable guidelines for proposed uses in this landscape setting. Commission Rule 350-81-520(3)(d)(B) states:

*In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:*

- (i) Structures shall be sited on portions of the property that provide maximum screening from key viewing areas, using existing topographic features.*
- (ii) Lower structures that emphasize horizontal lines and blend with this sweeping landscape should be encouraged rather than very tall structures.*
- (iii) Planting of trees for screening shall not be extensive, in character with the openness of this setting. Where used, screening vegetation shall either tie in with nearby riparian vegetation in seasonal drainages or emulate windrows. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include Oregon white oak, Lombardy poplar, black locust, black cottonwood (wet locations), Russian olive and ponderosa pine.*

No new structures are proposed in this application. With conditions of approval to retain existing screening vegetation, no new screening vegetation is required. As proposed, the modified trail segments will not noticeably contrast with the surrounding landscape and will be able to reach visual subordination, consistent with Commission Rule 350-81-520(3)(d)(A) and (B).

15. Commission Rule 350-81-520(3)(d)(C) states:

*Resource-based recreation uses of a very low-intensity or low-intensity nature that occur infrequently are compatible with this [landscape] setting, and include hiking, hunting and wildlife viewing.*

The proposed trail modification would create a less physically demanding hike for hikers and wildlife and wildflower viewers. As previously discussed above in Finding A.6 through A.11 the modifications would be a very low intensity use, compatible with this setting and therefore consistent with Commission Rule 350-81-520(d)(C).

**Conclusion:**

With the implementation of conditions to revegetate abandoned trail segments, retain the existing screening trees in the lower portions of the trail and any new outdoor lighting, the proposed

development would be consistent with the applicable policies of the Management Plan and guidelines in Commission Rule 350-81-520 that protect scenic resources in the National Scenic Area.

### C. Cultural Resources

1. The trail is located in a high probability area for cultural resources. The trail was previously surveyed for sensitive cultural resources in Director's Decisions C95-0044-K-G-20 and C98-0002-K-G-20. A cultural resource site was identified in the 1995 survey. Commission Rule 350-81-540(1)(c)(A)(i) requires a cultural resource survey for all proposed uses located within 500 feet of a known cultural resource.
2. On March 12, 2008 Margaret Dryden, Heritage Program Manager for the US Forest Service Scenic Area Office, conducted a reconnaissance survey, as required for small scale uses by Commission Rule 540.
3. On March 18, 2008 a comment letter in response to the initial application notice was received from Johnson Meninick, Manager for the Cultural Resource Program of the Confederated Tribes and Bands of the Yakama Nation. Mr. Meninick requested that the site be surveyed by a professional archeologist for the protection of archaeological resources and human remains. Commission staff spoke with Mr. Meninick after receiving his letter and confirmed that Ms. Dryden's survey would address his concerns regarding the proximity of the project to any significant cultural resources.
4. Ms. Dryden submitted a Columbia River Gorge National Scenic Area Heritage Resource Inventory Report to Commission staff on March 21, 2008. In her report, Ms. Dryden explains that previous surveys had been conducted on the site by Michael Boynton of the US Forest Service Scenic Area Office and Archaeological Investigations Northwest, Inc. (AINW) in 1995. She concludes that although her heritage resource inventory and field survey of this project revealed no new pre-historic or historic period archaeological resources within the area of potential effect, additional survey work should be conducted to comply with Director's Decision C95-0044-K-G-20. The 1995 decision included a condition of approval that, based on a recommendation by AINW, required any future changes to the trail within the boundaries of a known site to be surveyed for potential impacts.
5. In response to Ms. Dryden's conclusion, Commission staff requested a cultural resource survey from the applicant. Archaeologist Robert Freed was contracted by the applicant to conduct additional archaeological investigations of the site of the proposed trail relocation.
6. Mr. Freed's report, titled *Archaeological Investigation for the Cherry Orchard Trail Relocation Project near Lyle, Klickitat County, Washington* (attached) was received by Commission Staff on September 11, 2008. The report concludes that after conducting a pedestrian survey and subsurface probing no archaeological material was identified during the investigation and no further archaeological work was recommended.

Ms. Dryden reviewed Mr. Freed's report for compliance with the requirements for reconnaissance surveys and survey reports for small-scale uses in Commission Rules

350-81-540(1)(c)(D) and (E) and submitted comments in a letter on September 23, 2008. According to her letter, Ms. Dryden concurs with Mr. Freed's findings that the proposed trail modification would have no effect on known cultural resources and agrees that no additional archaeological work is necessary.

7. Pursuant to Commission Rule 350-81-540(2)(b)(A), a copy of Mr. Freed's report and Ms. Dryden's letter were sent to the State Historic Preservation Officer and Tribal governments on September 25, 2008 for comment.
8. Commission Rule 350-81-540(2)(c)(B) (ii) states that the cultural resource protection process may conclude when:

*A reconnaissance survey demonstrates that cultural resources do not exist in the project area, no substantiated concerns were voiced by interested persons within 21 calendar days of the date that a notice was mailed, and no substantiated concerns regarding the reconnaissance survey were voiced by the State Historic Preservation Officer or Indian tribal governments during the 30-day comment period required in subsection 2(b)(B) above.*

Robert G. Whitlam, State Archaeologist for the Washington Department of Archaeology and Historic Preservation submitted written comments in a letter dated October 8, 2008. Mr. Whitlam concurred with Ms. Dryden's review and Determination of No Effect. No additional comments were received from Tribal governments within the 30 day comment period. Therefore, pursuant to Commission Rule 350-81-540(2)(c)(B)(ii) the cultural resource protections process may conclude.

8. Commission Rule 350-81-540(6) protects cultural resources discovered during construction. It requires that if cultural resources are discovered after construction begins, all construction activities within 100 feet of the discovered cultural resource shall cease; further disturbance is prohibited, and the Gorge Commission shall be notified within 24 hours of the discovery. A condition of approval implementing this requirement is included in this decision.
9. Commission Rule 350-81-540(7) contains provisions addressing discovery of human remains during construction. The *Assessment of Effect and Mitigation Plan* (McDaniel, April 2003) included specific recommended measures to follow if human remains are discovered during project construction. Those recommendations are consistent with Commission Rule 350-81-540(7). A condition of approval requiring adherence to these measures if human remains are discovered is included in this Director's Decision.

#### Conclusion:

With conditions to ensure the protection of cultural resources and protection of unknown cultural resources or human remains discovered during construction, the proposed development is consistent with the guidelines in Commission Rule 350-81-540 that protect cultural resources in the National Scenic Area.

## D. Natural Resources

1. Commission Rule 350-81 provides guidelines for protecting wetlands (Section 560); streams, ponds, lakes, and riparian areas (Section 570); sensitive wildlife areas and sites (Section 580); and sensitive plants (Section 590).
2. There are no wetlands, or wetlands buffer zones on the subject parcel. The proposed development would be consistent with Commission Rule 350-81-560.
3. Commission Rule 350-81-020(150) defines streams as:

*Areas where surface water produces a defined channel or bed, including bedrock channels, gravel beds, sand and silt beds, springs and defined-channel swales. The channel or bed does not have to contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff structures, or other artificial watercourses unless they are used to convey streams naturally occurring prior to construction of such watercourses...*

4. According to Commission inventories, a stream traverses the parcel near the proposed trail modifications. Staff conducted several site visits to verify the location of the stream channel and ordinary high water mark. After consulting with Mark Kreiter, Hydrologist for the Forest Service Scenic Area Office, it was concluded that there is no stream near the upper portion of the modified trail, but rather an ephemeral drainage depression that only channels into a stream near the bottom of the trail after very high levels of seasonal drainage or large storm events. As verified in the field, no defined stream channels exist beyond the lower part of the trail modifications, where a crossing already exists. Mr. Kreiter stated that contrary to the Commission's maps, the site simply does not experience enough regular precipitation to become more defined or to be considered a stream. Given this information, it was concluded that the defined channel near the lower portion of the trail (before the first switchback) would be treated and protected as a stream, but that the undefined channel (the ephemeral drainage from the larger valley) does not meet this definition.
5. Commission Rule 350-81-570(7) specifies that subject stream would have a 50 foot stream buffer zone as measured from the ordinary high water mark. As proposed the new trailhead would be moved approximately 100 feet farther east, away from the mouth of the stream. Farther up the trail, the existing crossing would still be utilized but does not require any modification inside the buffer zone as part of this application. As proposed, the trail modifications would not occur within the buffer of any streams, ponds or lakes, consistent with Commission Rule 350-81-570(7).
6. The Gorge Commission's sensitive wildlife inventory shows the trail is within 1,000 feet of a Peregrine Falcon site and habitat, deer and elk winter range and shallow water fish habitat in the Columbia River. Commission Rule 350-81-580(1)(a)(A) defines sensitive wildlife areas to include these areas.

7. Commission Rule 350-81-580(4)(a) requires the Gorge Commission to notify the Washington Department of Fish and Wildlife (WDFW) when a new development or land use is proposed within a sensitive wildlife area. On April 18, 2008, Gorge Commission staff sent WDFW a copy of the applicant's land use application and site plan.

8. Commission Rule 350-81-580(4)(c) states:

*The wildlife protection process may terminate if the Development Review Officer, in consultation with the appropriate state wildlife agency, determines: the sensitive wildlife area is not active; or the proposed use would not compromise the integrity of the wildlife area, or occur during the time of the year when wildlife species are sensitive to disturbance.*

In an email on April 18, 2008 to the Gorge Commission, Bill Weiler, Area Habitat Biologist with WDFW, questioned whether or not any trees were proposed for removal as a part of this application. Staff informed Mr. Weiler that no trees were proposed to be removed for trail modification. Mr. Weiler responded and requested that staff contact WDFW agent David Anderson to verify any impacts to the Peregrine Falcon site and/or habitat. Staff worked with Mr. Anderson to determine any potential impacts. After sending Mr. Anderson photos of the site and detailed site plans it was confirmed that the proposed trail segments move east, away from the habitat of concern. Mr. Anderson concluded that with a condition to close and revegetate those portions that are being replaced, the proposed trail modifications would not compromise the integrity of sensitive wildlife areas, consistent with Commission Rule 350-81-580(4)(c).

9. Commission Rule 350-81-590 contains guidelines for the protection of sensitive plant species. The trail is located in an area that contains a diverse collection of wildflowers throughout the spring and summer months. Several sitings of rare and endemic wildflowers have been documented in the vicinity of the trail by local experts and in trail association publications. Of these reports, Meconella oregano, a state level threatened species and US Fish and Wildlife species of concern, has been reported to exist along the trail.

10. Commission Rule 350-81-590(4)(a) states:

*Site plans shall be submitted to the Oregon or Washington Natural Heritage Program by the Executive Director. The Natural Heritage Program staff will review the site plan and their field survey records. They will identify the precise location of the affected plants and delineate a 200 foot buffer zone on the project applicant's site plan.*

*If the field survey records of the state heritage program are inadequate, the project applicant shall hire a person with recognized expertise in botany or plant ecology to ascertain the precise location of the affected plants.*

Staff contacted Sandy Swope Moody of the Washington Natural Heritage Program (WNHP) in the spring of 2007 to verify any potential impacts to sensitive plant species. Ms. Swope Moody explained that the WNHP inventory was not adequate for this area and although their inventories did not show any documented sites, it was probably not accurate. Based on Ms. Moody's input and the information about sensitive plants occurring in the vicinity of the trail, staff requested a sensitive plant survey from the applicant on April 10, 2007.

11. On February 12, 2008, staff received a sensitive plant survey from the applicant prepared by local botanist Krista Thie. The report, dated January 31, 2008 is titled: *Botanical Survey of the Cherry Orchard Trail proposed corridor, Lyle, Washington*. In the survey, Ms. Thie reviewed a 500 foot corridor along the proposed trail modifications and did not find evidence of rare or endemic plant species. A copy of the survey report was transmitted to Ms. Swope Moody on February 28, 2008.
12. After reviewing the report with her colleagues, Ms. Swope Moody concluded in an email dated March 3, 2008 that WNHP has no concerns or comments regarding the trail modifications. Pursuant to Commission Rule 350-81-590(4)(b) which states that the rare plant protection may conclude if, in consultation with the WNHP staff, it is determined that the proposed use would be located outside of a sensitive plant buffer zone, the plant protection process may conclude.

Conclusion:

With conditions to close and revegetate those portions of the trail to be modified, the proposed development is consistent with the guidelines in Commission Rule 350-81, Sections 560 through 590 that protect natural resources in the National Scenic Area.

**E. Recreation Resources**

1. Commission Rule 350-81-086 states:

*If new buildings or structures may detract from the use and enjoyment of established recreation sites, an appropriate buffer shall be established between the building/structure and the parcel.*

The proposed development is a modification to an existing and previously established recreation site. Besides improving erosion problems, the proposed modifications would improve the use and enjoyment experienced by users. No other existing recreation resources exist on adjacent parcels, thus no buffer is required in this decision, consistent with Commission Rule 350-81-086.

2. Commission Rule 350-81-610 lists allowable recreation uses occurring in the General Management Area based on designated Recreation Intensity Classes. Commission Rule 350-81-610(1)(b) states that hiking trails are allowed in areas of the National Scenic Area designated as Recreation Intensity Class I (very low intensity), subject to compliance with Commission Rule 350-81-610(5) and (6). The proposed re-route

travels through property that is designated Recreation Intensity Class I. Thus the proposed modifications to the hiking trail are allowed pursuant to this rule.

3. Commission Rule 350-81-610(5) states that all proposed recreation projects outside of Public or Commercial Recreation designations shall meet the following criteria:

*a. compliance with 350-81-520 through 620;*

Compliance with Commission Rules 350-81-520 through 620 are addressed in Sections B through E of this decision.

*b. Cumulative effects of proposed recreation projects on landscape settings shall be based on the "compatible recreation use" guideline for the landscape setting in which the use is locate.*

See finding B.5 above.

*c. For proposed recreation projects in or adjacent to lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland;*

*i. The use would not seriously interfere with accepted forest or agricultural practices on surrounding lands devoted to forest or farm uses. Provision of on-site buffers may be used to partially or fully comply with this criterion, depending on the project and/or site conditions.*

The subject landowner also owns several other contiguous properties. Most of the adjacent properties are either owned by the subject landowner or by public entities and do not contain forest or agricultural practices. Remnants of an abandoned cherry orchard exist near the eastern terminus of the trail. However, no crop cultivation currently occurs on adjacent lands. With the exception of some seasonal cattle grazing on one adjacent parcel, minimal forest and agricultural uses occur on surrounding lands.

The use of the trail for hiking has been established since 1992 and no known conflicts have occurred between the grazing activities and the recreational use of the trail. Because the proposed trail modifications would not significantly change the trail's location, size or extent, they would not change the character of the existing use. Therefore, the modifications are not expected to increase the chance of conflicts between the two uses. Given this information, the proposed improvements would not interfere with accepted forest or agricultural practices, consistent with Commission Rule 350-81-610(5)(c)(A).

*ii. A declaration has been signed by the project applicant or owner and recorded with the county deeds and records specifying that the applicant or owner is aware that operators are entitled to carry on*

*accepted forest or farm practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland*

A condition of approval is included in this decision to ensure compliance with this requirement, Consistent with Commission Rule 350-81-610(5)(c)(ii).

4. Pursuant to Commission Rule 350-81-610(5)(e) several Management Plan trail policies [Management Plan, page I-4-11] are applicable to the subject trail.

Policy 1 states:

*Trail planning and management efforts shall include affected landowners, relevant agencies, Indian tribal governments, and trail organizations from the beginning of such efforts.*

As previously explained in Finding A.3 above, the trail has been in use since 1992. It was legally established through a Commission review in 1995. This policy focuses primarily on planning for new trails. As part of the general application process however, a description of the proposed modifications was sent to the landowner, adjacent property owners, relevant agencies and Indian tribal governments. The applicant is also a member of the Chinook Trail Association, a local trail organization. Given this information, the proposed trail modifications are consistent with Management Plan Policy 1 for Trails and Pathways.

Policy 4 states:

*Temporary trail closures during critical fire hazard periods should be considered.*

The existing wide shoulder and gravel parking area serve as a buffer between the vegetation and the road, providing protection from traffic related fires. As previously mentioned in this decision, the lower portion of the trail is more densely vegetated than the upper portion. As one climbs in elevation, the trail enters a grassy and rocky landscape with scattered trees that is more open in nature. The existing trail has been in use since the early nineteen-nineties without seasonal closures during fire hazard periods. Recent visits to the site by Commission staff concluded that no obvious signs of past fire damage exist within the vicinity of the trail. Given the trail's history of low fire occurrences and its proximity to the road, no closures during fire hazard periods will be required by this decision.

Policy 5 states:

*Shared use of trails by compatible multiple-user groups should be encouraged as much as possible where appropriate conditions exist, to maximize efficient use of trails and reduce needs for new trail construction.*

Due to the considerably steep grade of much of the trail and concerns about erosion, the applicant has been managing the trail as a footpath only. As proposed, the modified portions would measure 28 inches wide and the trail as a whole would still exist on steep terrain. Given the existing site conditions, it is not appropriate to encourage multiple uses of this trail.

Policy 6 states:

*User conflicts on trails shall be minimized through proper siting, design, and maintenance and an aggressive user education program. Multiple-use trails shall be built to standards sufficient to accommodate such different groups. Standards shall address safety concerns and considerations such as signage, trail width, visibility, and percent grade.*

As previously stated above, the trail is managed as a foot path. To prevent erosion, site damage and user conflicts, a fence stile placed near the existing trailhead currently prevents trail users from bringing bicycles, motorized vehicles or horses into the site. Although the trailhead is one of the areas to be modified, the site will continue to be managed as a footpath and the user types should remain the same. Because the trail primarily hosts one user group, user conflicts are not a significant issue. Given this information the proposed trail modifications would be consistent with this guideline.

Policy 7 states:

*Use of motorized vehicles on designated public use trails shall be prohibited, except for use by response agencies and their agents in an emergency.*

The use of motorized vehicles is not included in this application. A condition of approval will be included to alert the applicant and landowner to this policy.

Policy 8 states:

*Priority shall be given to the completion and improvement of existing trails, incomplete trail loops, and trail segments, considering relationships with trails in Urban Areas, the SMA, and outside the Scenic Area.*

The Chinook Trail Association advocates development of a bi-state rim top loop trail around the Columbia River Gorge. As a member of the Chinook Trail Association, the applicant is working towards the goal of completing the loop trail concept. As proposed, the modifications would serve to improve an existing trail and would aide in the completion of the Chinook Trail bi-state rim top loop trail around the Columbia River Gorge, consistent with this policy.

Policy 10 states:

*Trail systems and new trails shall, where feasible, incorporate existing segments of older/historic trails and abandoned road and railroad rights-of-way.*

Initially, the established trail was created using several existing trails, improving them and connecting them together to form one improved trail. In this new application, the applicant is proposing to replace those portions of the trail that are exceptionally steep. Besides the trailhead, most of the lower portion of the trail will be located in the same location. The trail is being modified because the existing trail is excessively steep and is suffering from erosion problems. In this case it is not feasible to reuse the steep portions of the trail. It would be more beneficial for the natural environment and trail users alike to close and reseed the steep portions, and reroute the trail through more gradual terrain.

Policy 12 states:

*Barrier-free access shall be provided for new trails and improvements to existing trails to the maximum extent practicable.*

The existing trail ranges significantly in grade, but is steep to very steep (15% to 45% slopes) through much of its length. These grades exceed the recommends accepted standards for barrier-free trail usage. The proposed modifications would reduce the grade on portions of the trail, but not its entirety. Due to steepness it is not practical to make the Cherry Orchard Trail barrier free.

Policy 13 states:

*Public needs for convenience, access, and security shall be considered when designing and siting trailheads.*

As proposed the trailhead will be relocated approximately 100 feet east of its existing location within the same wide shoulder. The parking area and its proximity to the trailhead will remain unchanged. The modified trailhead will follow existing topography and result in a less steep grade. The modifications will not decrease the level of convenience, access or security of the trailhead, consistent with this policy.

Policy 16 states:

*Trails proposed along the Columbia River and its tributaries shall be designed in a manner that minimizes effects to the shoreline and associated habitat values. Seasonal closures during critical wildlife periods shall be considered, as well as other appropriate mitigative measures.*

The proposed trail modifications will occur over 300 feet from the edge of the Columbia River, north of SR 14. The Washington Department of Fish and Wildlife and

the Natural Heritage Program offices were contacted to verify any potential impacts to sensitive habitat areas. Neither agency expressed concern regarding the proposed actions. Potential impacts to natural resources are discussed in Section C of this decision.

5. Commission Rule 350-81-610(6) includes design guidelines for the development of new recreation developments. The guidelines address design of parking and trailhead structures, lighting and landscape features. The subject application is for the modification of an existing trail. The improvement projects are small in scope and would not significantly change the character of the trail. Therefore, guidelines listed in 350-81-610(6) do not apply.
6. The Recreation Development Plan contains policy framework for implementing and funding high-priority proposed recreation facilities. The proposed recreation facilities are described in the Recreation Development Proposals list, which highlights selected sites and proposed projects that will best achieve the recreation goals and objectives of the Scenic Area Act. Because the Cherry Orchard Trail is not contained within this list, and is not receiving funding authorized by the Scenic Area Act, the Recreation Development Plan provisions do not apply.

Conclusion:

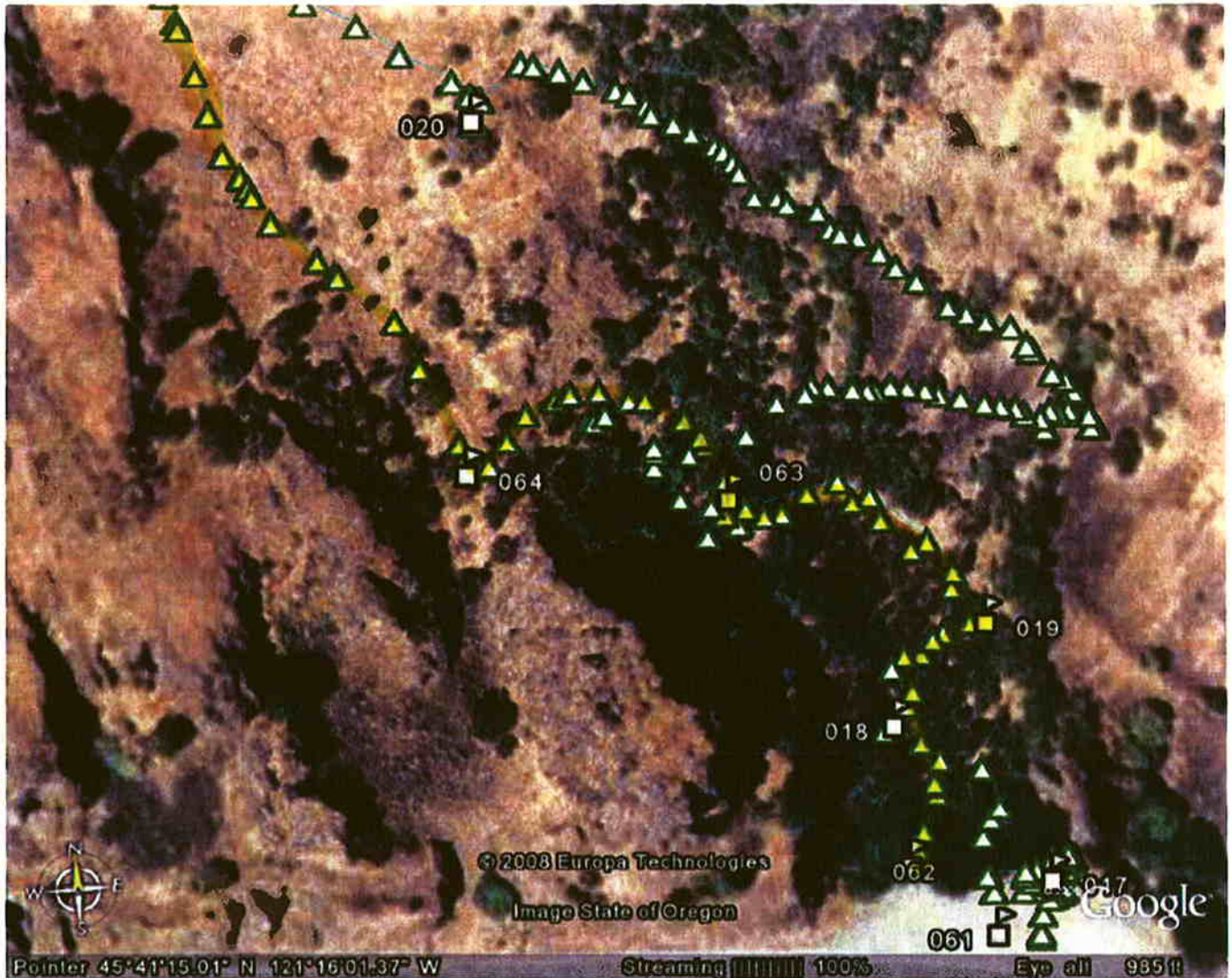
The proposed modifications to the Cherry Orchard Trail would be consistent with Commission Rules 350-81-086 and the recreation intensity class provisions (350-81-610) that protect recreation resources in the National Scenic Area.

AK  
FIND0008.07

cc: Confederated Tribes and Bands of the Yakama Indian Nation  
Confederated Tribes of the Umatilla Indian Reservation  
Confederated Tribes of Warm Springs Reservation  
Nez Perce Tribe  
Klickitat County Planning  
Klickitat County Building  
Friends of the Columbia Gorge  
Bill Weiler, WDFW  
Sandy Swope Moody, WNHP  
Robert Whitlam, DAHP

Cherry Orchard Trail - proposed re-route

\* Lower portion



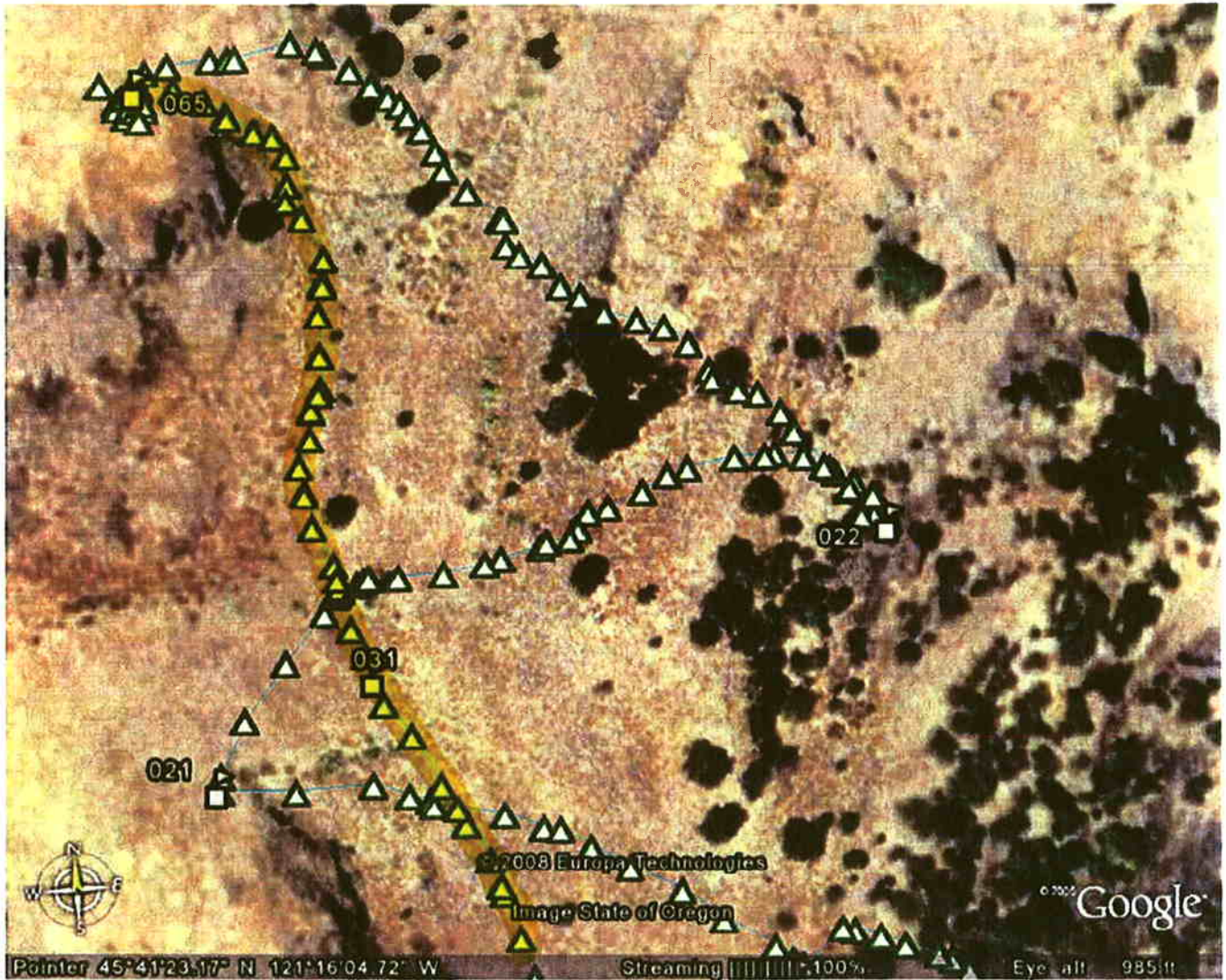
yellow = Existing route  
white = proposed re-route

**APPROVED**

BL  
11/3/08



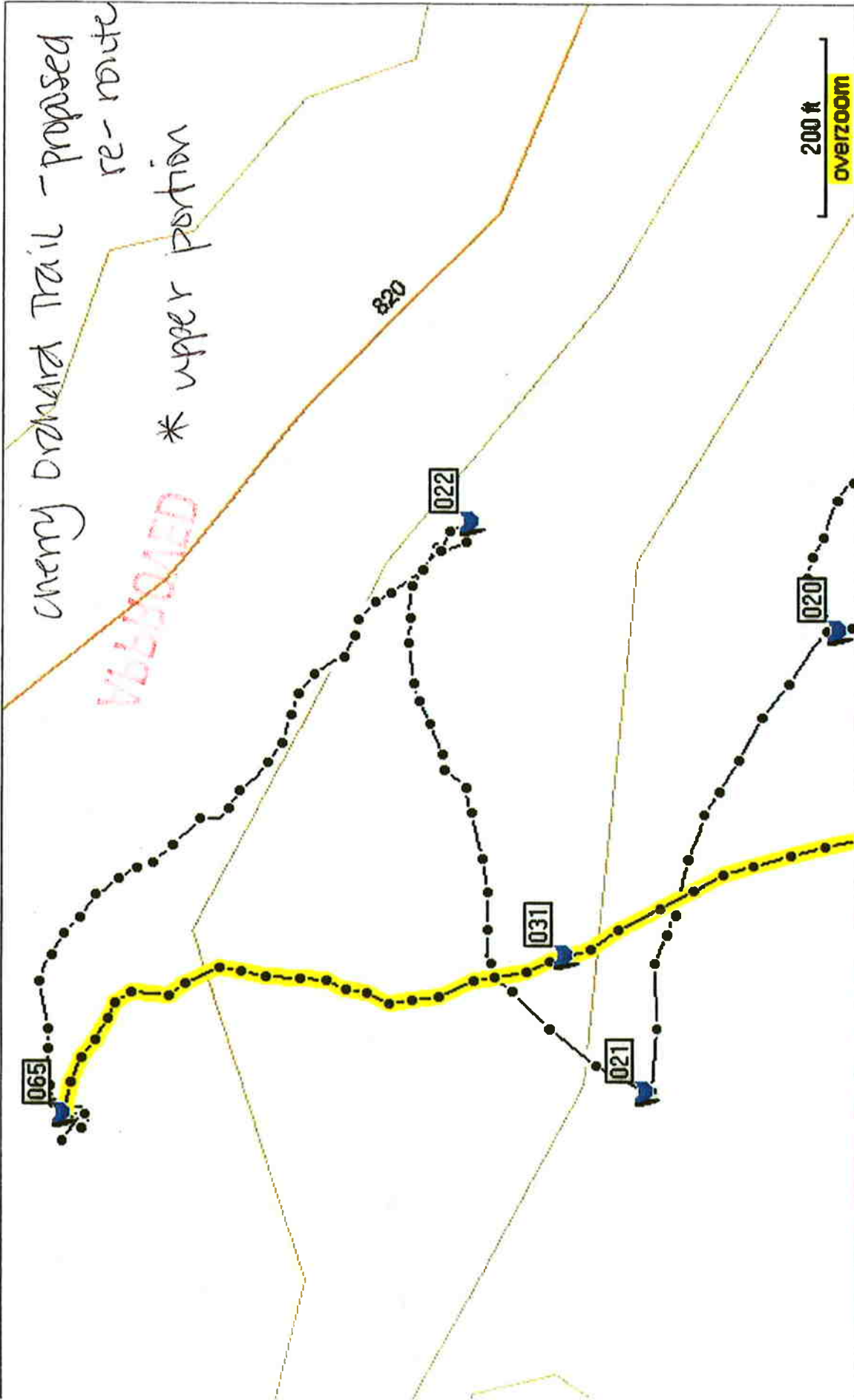
Cherry Orchard trail - proposed re-route  
\* upper portion



yellow = EXISTING route  
white = proposed re-route

**APPROVED**  
FL 11/31/08





yellow = Existing route  
 white = proposed re-route

**APPROVED**  
 PC 11/3/08

FEB 19 2008  
 COUNTY OF SANTA BARBARA





### Grass Seed Mix for East side

Pseudoroegneria spicatum (Blue bunch wheat grass)	60%
Festuca idahoensis (Idaho fescue)	5%
Stipa comata (Needlegrass)	10%
Sitanion hystrix (Bottlebrush squirreltail)	5%
Oryzopsis hymenoides (Indain ricegrass)	10%
Poa sandbergii (P. secunda) (Sandberg bluegrass)	10%

Grass seed should be seeded at 20 lbs per acre. All seeding should be done in Fall.

Then add some herbaceous plants:

Chrysothamnus nauseosus (rabbitbrush)	1 -2 oz./ac.
Achillea millefolium (Yarrow)	1 -2 oz./ac.
Eriogonum strictum	1 -2 oz./ac.
Lupinus bicolor	1 -2 oz./ac.
Eriophyllum lanatum (Oregon sunshine)	1 -2 oz./ac.
Bitter brush (Purshia tridentate)	10 small plants/ac.

Most of these seeds can be purchased from Rainier Seed Co. ( Davenport Seed):  
1-800-828-8873.(Fax: 509-725-7015), WA.

Or

From Milestone Nursery: Lyle, WA 509-365-5222 (Fax: 509-365-4245)

For best results seed should be applied via hydro-mulching or with Rexus  
(www.rexius.com, tel.: 503-635-5865)

To all,

Normally I do not add any fertilizer because the higher Nitrogen usually favors the non-natives. The natives, on the other hand, are more adapted to the rigors of our native soils. In very sandy conditions, I would suggest using a mulch of some sort. Straw can be very effective. The benefits of the mulch are not fertility related but do enhance the soil moisture retention thus helping the seedlings get established. In the drier areas, getting seedlings established can be very difficult and failure is not uncommon (unfortunately). Moisture is, I believe, the major problem and a mulch should, in theory, help. But I would be very cautious about using a mulch that has a lot of nitrogen embedded into it for the reasons stated above. Robin



Hello Marge,

Maybe you can ask Robin about using Indian ricegrass (*Oryzopsis hymenoides*) in this area. I saw it on Hanford as one of the dominant species on sand dunes. It is beautiful, seeds are available commercially from some growers, and I believe it is a plant that is used culturally.

Kimberly

Kimberly,

Absolutely! Indian rice grass would be an excellent spp to add to any mix and I often do in drier east-side areas. It is always difficult to know which spp will do best and it is always advisable to add as many spp as possible to the initial mix and let the grass spp sort themselves out. Robin