

DEVELOPMENT REVIEW

Director's Decision

APPLICANT: Marc Dinnerstein

FILE NO.: C08-0016-K-G-19

REQUEST: To remove an existing single-family dwelling, replace and fill in the existing septic tank, and convert an existing garage into a living quarters on a 126.4 acre parcel.

LOCATION: The subject parcel is located at 19 Balch Road, approximately 2 miles northwest of Lyle, Washington. The parcel is located within the SW $\frac{1}{4}$ of Section 28, Township 3 North, Range 12 East, Willamette Meridian, Klickitat County, Washington.

LAND USE

DESIGNATION: The subject parcel is designated Small-Scale Agriculture in the General Management Area.

DECISION:

Based upon the following findings of fact, the land use application by Marc Dinnerstein to remove an existing single-family dwelling and fill in the existing septic tank is consistent with the standards of Section 6 and the purposes of the Columbia River Gorge National Scenic Area Act (Public Law 99-663), Management Plan, and Commission Rule 350-81, and is hereby approved, with conditions.

This approval does not exempt the applicant or successors in interest from complying with all other applicable local, state, and federal laws.

CONDITIONS OF APPROVAL:

The following conditions of approval are given to ensure that the subject request is consistent with the standards of Section 6 and the purposes of 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 first two pages of this decision shall be recorded in county deeds and records (Klickitat County Auditor's Office) to ensure notice of the conditions to successors in interest. The

applicants shall submit a copy of the recorded decision to the Executive Director prior to commencing the activity authorized by this approval.

2. The applicant shall contact the Klickitat County Building and Planning Departments, the Klickitat County Health Department, and Washington State Department of Ecology, and obtain any permits necessary from those agencies for the activity proposed in the application prior to commencing the work authorized by this approval.
3. The development shall be sited and constructed as shown on the site plan submitted with the application, dated July 7, 2008 and stamped "APPROVED". If changes to the location of the approved ground disturbance activity are proposed, a revised site plan and elevation drawings shall be submitted to the Executive Director for review and approval prior to application for a building permit from Klickitat County.
4. Only one single-family dwelling may be occupied at a time on the parcel. Occupancy of the remodeled garage may only occur for no more than 60 days prior to the removal of the existing dwelling proposed for demolition.
5. 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 Executive Director of the Gorge Commission.

DATED AND SIGNED THIS 14th day of August, 2008, at White Salmon, Washington.

Jill Arens
Jill Arens
Executive Director

EXPIRATION OF APPROVAL:

This decision of the Executive Director becomes void on the 14th day of August, 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 Executive Director 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 Executive Director shall not grant an extension if the site characteristics and/or new information indicates 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 13th day of September, 2008.

The decision of the Executive Director 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 such as residences; garages, workshops, or other accessory structures; or additions or alterations 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
- Washington Department of Fish and Wildlife
- Friends of the Columbia Gorge

Written comments were received from Richard Till, Land Use Law Clerk for the Friends of the Columbia Gorge; Barbara Sexton, a nearby property owner; Bill Weiler, Washington Department of Fish and Wildlife, and Mo-chi Lindblad of the Klickitat County Planning Department. Klickitat County suggested that the applicant contact the Klickitat County Building and Health Departments and the Washington Department of Ecology regarding the proposed activity. Comments were also received from Gregory Griffith of the Washington Department of Archaeology and Historic Preservation.

FINDINGS OF FACT:

A. Land Use

1. The subject parcel is 126 acres in size and located on Balch Road, approximately 2 miles northwest of Lyle, Washington. The applicant is proposing to remove a single-family dwelling, including the concrete foundation, and remodel the existing garage into a living quarters. The applicant also proposes to decommission the existing septic tank by filling it in and replace it to serve the new living space.
2. The Land Use Designation map in the *Management Plan for the Columbia River Gorge National Scenic Area* designates the subject parcel Small-Scale Agriculture in the General Management Area.

3. Commission Rule 350-81-190(1)(x) allows the following on lands designated Small-Scale Agriculture:

Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

The existing residential building proposed for removal was constructed early in the 20th century. It is serviceable, but the applicant does not desire to continue to repair and maintain the structure. The applicant is proposing to remove the existing residence, which is more than 50 years old, and to decommission the associated septic tank. The proposed removal of the residence and decommissioning of the septic tank is an allowed use that is reviewed against the resource protection guidelines of Commission Rule 350-81-540 through 620 in Sections B through E, below.

4. Commission Rule 350-81-190(1)(j) allows the following on lands designated Small-Scale Agriculture:

A single family-dwelling on any legally existing parcel.

The subject parcel was determined to be a legally existing parcel by the Executive Director of the Gorge Commission in 2005 (Development Review C04-0001-k-G-12 WA Fish and Wildlife). A single dwelling is allowed on the subject parcel. A condition of approval will require that the existing dwelling on the parcel is removed prior to occupancy of the remodeled garage. The proposed septic system replaces the one serving the existing dwelling and will serve the remodeled garage as an accessory use.

Both the change of use for the garage to a single-family dwelling and the replacement septic system to serve the new dwelling are allowed uses subject that are reviewed against the resource protection guidelines of Commission Rule 350-81-540 through 620 in Sections B through E, below.

Conclusion:

The proposed removal of existing structures, the conversion of the garage to a single-family dwelling, and the installation of a new septic system are allowed review uses on lands designated Small-Scale Agriculture in the GMA, subject to compliance with guidelines that protect scenic, natural, cultural and recreational resources (350-81-540 through 620).

B. Scenic Resources

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

New buildings and roads shall be sited and designed to retain the existing topography and to minimize grading activities to the maximum extent practicable.

The buildings on the subject parcel occupy a mostly level bench to the east of Balch Lake Road. Trees to the south screen the house site from most views from the south. The site is at an elevation of 500 feet, approximately 400 feet above the elevation of the Columbia River, SR 14, and Hwy 84 at this location. An existing driveway from Balch Lake Road accesses the residence, existing garage and farm buildings on the site. No new buildings or roads are proposed as part of this project. Grading and ground disturbance is limited to the footprint of the existing residence, the existing driveway and a small area nearby where the septic tank is located and to be replaced. The proposed project site minimizes grading activities and retains the existing topography to the maximum extent practicable, consistent with Commission Rule 350-81-520(1)(a).

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

New buildings shall be compatible with the general scale (height, dimensions and overall mass) of existing nearby development.

No new buildings are proposed. Therefore, this rule is not applicable to the proposed development.

3. 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.

No vegetation is required to be planted by the guidelines of this chapter. Therefore, this rule is not applicable to the proposed development.

4. Commission Rule 350-81-520(2) contains guidelines that apply to new development on sites that are topographically visible from Key Viewing Areas (KVAs).

No new development is proposed on sites topographically visible from KVAs. The proposed activity is not subject to the scenic resources guidelines in Commission Rule 350-81-520(2).

5. The Landscape Settings Map in the *Management Plan for the Columbia River Gorge National Scenic Area* classifies the building site as Oak Woodlands. Commission Rules 350-81-520(3)(c)(A) and (B) contain applicable guidelines for proposed development in this landscape setting.

6. Commission Rule 350-81-520(3)(a)(A) states:

Structure height shall remain below the tree canopy level in wooded portions of this setting.

The project site is at the edge of the cultivated lands on the parcel and set amidst trees and other buildings on the property. No new structures are proposed. The project is consistent with Commission Rule 350-81-520(3)(a)(A).

7. Commission Rule 350-81-520(3)(a)(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) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from key viewing areas shall be retained.*
- (ii) Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.*
- (iii) 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 fruit trees, Douglas-fir, Lombardy poplar (usually in rows), Oregon white oak, big leaf maple, and black locust (primarily in the eastern Gorge).*
- (iv) At least one-quarter of any trees planted for screening shall be coniferous for winter screening.*

No new development is proposed and no trees will be removed for the activity proposed. No additional trees are necessary for screening purposes. The requirements of Commission Rule 350-81-520(3)(a)(B) are met.

8. Commission Rule 350-81-520(4) requires that all review uses within Scenic Travel Corridors be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway.

The closest Scenic Travel Corridor, State Route 14, is located approximately 2 miles south of the subject parcel. The proposed development is farther than 100 feet from the roadway, and is thus consistent with Commission Rule 350-81-520(4).

Conclusion:

The proposed activity is consistent with the guidelines in Commission Rule 350-81-520 that protect scenic resources in the National Scenic Area.

C. Cultural Resources

1. Commission Rule 350-81-540(1)(c)(A)(ii) requires a cultural resources reconnaissance survey for all proposed uses except those described in 350-81-540(1)(c)(A)(ii)(I) through (VI).
2. Marge Dryden, Heritage Resource Program Manager for the Columbia River Gorge National Scenic Area, reviewed the new land use application and determined that pursuant to Commission Rule 350-81-540(1)(c) a reconnaissance survey and historic survey was required because the structure proposed for demolition was greater than 50 years old.
3. Commission Rule 350-81-540(1)(c)(A)(i) states:

A reconnaissance survey shall be required for all proposed uses within 500 feet of a known cultural resource, including those listed as exceptions in 350-81-540(1)(c)(A)(ii).

According to the Cultural Resource Inventory Report, dated June 20, 2008 and prepared by Melissa Darby of Lower Columbia Research & Archaeology, the nearest archeological site is more than 1200 feet from the project area, although isolates have been found within 500 feet of the project site. As part of her site inspection, Ms. Darby investigated the ground surface for cultural materials. No archaeological materials were found in the area of potential affect.

4. Commission Rule 350-81-540(1)(c)(B) states:

A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings or structures that are 50 years old or older.

The applicant proposes to remove a residential structure that is greater than 50 years old. Ms. Darby's research found that the structure was constructed in approximately 1903. However, Ms. Darby found that the structure lacks integrity, is in poor condition, and does not meet the criteria for consideration for inclusion on the National Register of Historic Places. The report concludes that the house is not a significant historic resource and that the proposed action will have no effect of significant cultural resources. Ms. Dryden concurred with Ms. Darby's findings. Ms. Dryden determined that other aspects of the project did not require a historic survey.

5. Commission Rule 350-81-540(2)(b) requires the Commission submit a cop of cultural resource survey reports to the State Historic Preservation officer and the Indian tribal governments. The State Historic Preservation officer and the tribes shall have 30 calendar days to respond. The report prepared for this project was sent to the State Historic

Preservation officer and the Indian Tribal Governments on June 23, 2008. On July 15, Gregory Griffith of the State Historic Preservation Office concurred with Ms. Darby's findings, and determined that the structure was not eligible for the National Register of Historic Places.

6. Commission Rule 350-81-540(2)(c)(B) states:

The cultural resource protection process may conclude when one of the following conditions exists...

(ii) *A reconnaissance survey demonstrates that cultural resources don't 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.*

and

(iv) *A historic survey demonstrates that the proposed use would not have an effect on historic buildings or structures because:*

(a) *The State Historic Preservation officer concludes that the historic buildings or structures are clearly not significant, as determined by using the criteria in the "National register Criteria for evaluation".*

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 cultural resource impacts were voiced by the State Historic Preservation Officer or Indian tribal governments during the comment period. Additionally, the State Historic Preservation officer concluded that the affected structures were not significant. Therefore, the cultural resource protection process may conclude.

7. 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 will alert the applicant to this requirement.

Conclusion:

With a condition protecting unknown cultural resources 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. 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.

No recreation sites or facilities exist on parcels that are adjacent to the subject parcel, therefore, no buffers are required pursuant to Commission Rule 350-81-086.

Conclusion:

The proposed agricultural building would be consistent with Commission Rule 350-81-086 that protects recreation resources in the National Scenic Area.

E. 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. The Gorge Commission's natural resource inventory shows Balch Lake and associated wetlands are located over 175 feet west of the structure proposed for demolition. Balch Lake Road runs between the subject parcel and the lake and wetlands. Shrubs and forest vegetation characterizes the area between the lake, road, and project site. Commission Rule 350-81-560(7) and 570(7) defines a buffer area of no greater than 100 feet adjacent to the wetlands and lake. The proposed development is located well outside of this buffer area. No disturbance will occur within the buffer area.
3. The Gorge Commission's natural resource inventories shows a seasonal stream running along the north property line of the subject parcel. The riparian area is composed of a mixture of shrubs and herbaceous vegetation. Commission Rule 350-81-570(7) defines a buffer area of no greater than 50 feet adjacent to seasonal streams. The proposed development is located more than 250 feet from the stream and is well outside of the required buffer area. No disturbance will occur within the buffer area.
4. The Gorge Commission's natural resource inventories indicate that sensitive wildlife sites are located within 1000 feet of the project area. Commission Rule 350-81-580(3) allows review uses to occur within 1,000 feet of a sensitive wildlife area or site when approve pursuant to Commission Rule 350-81-580(4).
5. Commission Rule 350-81-580(4) requires that the site plan for the development is submitted to the Washington Department of Fish and Wildlife for review and determination whether the proposed use may compromise the integrity of the wildlife

site or whether the activity would occur during the time of year when wildlife species are sensitive to disturbance.

On June 24, 2008 Commission staff sent notice and site plan to the Washington Dept. of Fish and Wildlife. On July 1, 2008 they indicated that they have no concerns regarding this development proposal.

6. The Gorge Commission's natural resource inventories do not show any sensitive plant areas or sites within 1,000 feet of the subject parcel. The proposed development would be consistent with Commission Rules 350-81- 590 that protects these resources.

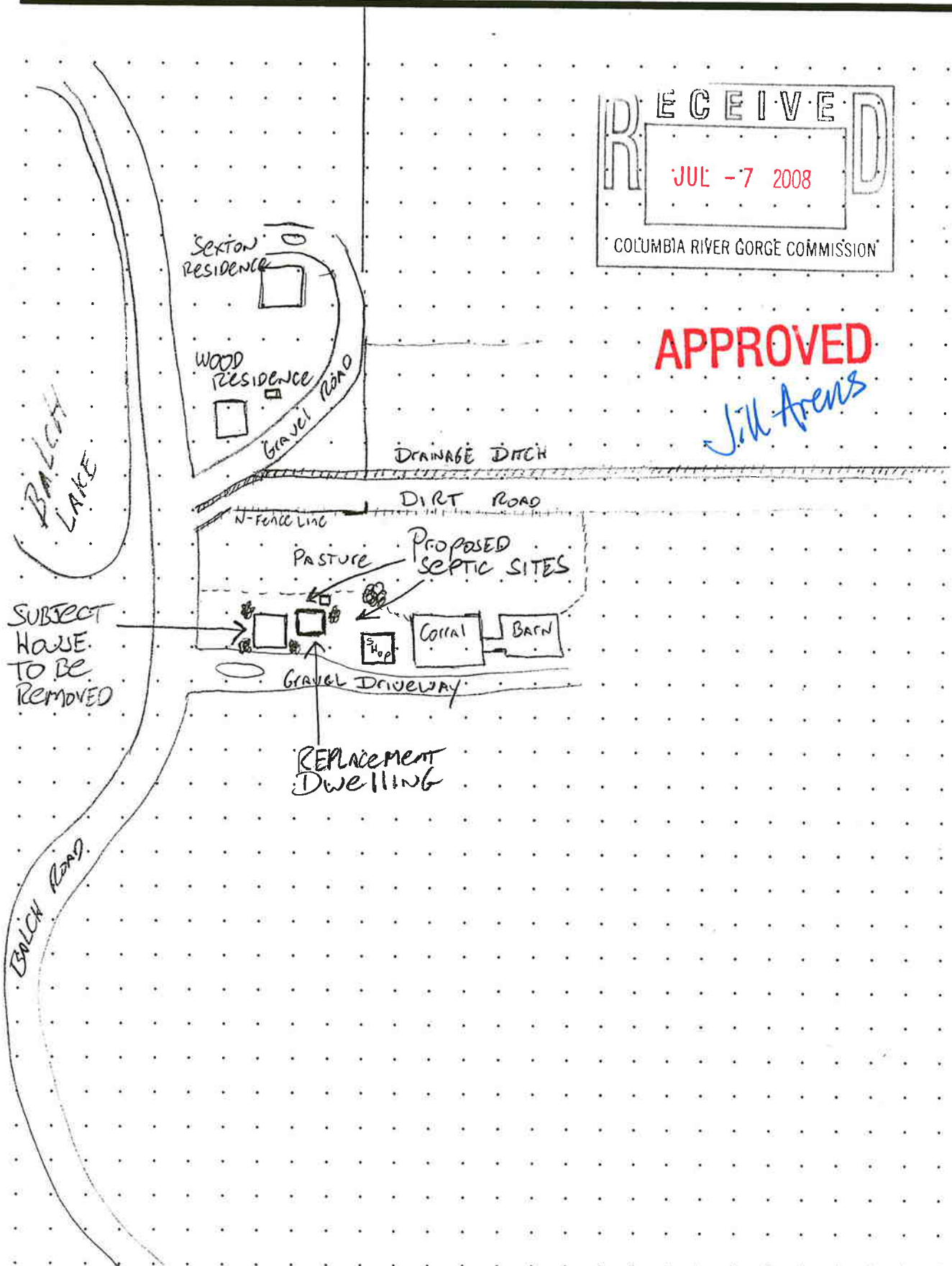
Conclusion:

The proposed agricultural building is consistent with the guidelines in Commission Rule 350-81, Sections 560 through 590 that protect natural resources in the National Scenic Area.

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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, Washington Department of Fish and Wildlife
Washington Dept. of Natural Resources
Gregory Griffith, Washington Department of Archaeology and Historic Preservation
Barbara Sexton

↑ North



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JUL -7 2008
COLUMBIA RIVER GORGE COMMISSION

APPROVED
Jill Arenis

Each grid equals 50' x 50' at a scale of 1" = 200'.