

**TO:** Columbia River Gorge Commission

**FROM:** Jason Hildreth, GIS Analyst/Land Use Planner

**DATE:** October 11, 2016

**SUBJECT:** **Action Item:** Tentative Approval of Urban Area Boundaries Legal Descriptions

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**Project Goal:**

The goal of the urban area boundaries legal descriptions project is to have the Gorge Commission and U.S. Forest Service adopt uniform legal descriptions for the thirteen urban area boundaries in the National Scenic Area. Commission and Forest Service staff have agreed on uniform legal descriptions and are ready to take next steps for adopting the legal descriptions as the official boundaries of the urban areas. As a note of clarity, the urban areas are not the same as urban growth boundaries as described under Oregon law.

**Action Requested:**

Approve the legal descriptions as ready for rulemaking and authorize staff to begin drafting a final rule to formally adopt the legal descriptions.

**Background:**

Urban area boundaries have been a problem since the first days of the Commission. The maps that Congress provided with the text of the National Scenic Area Act (1986 maps) were imprecise. The U.S. Forest Service developed a set of maps (1987 maps) that it and the Commission have used since then, but these maps have served as "illustrations of the boundaries" due to the hand-drawn nature of the lines and thus are not precise. There are a few examples where there was incomplete documentation to explain differences between the 1987 maps compared to the 1986 congressional maps.

For several years, Commission staff made "boundary determinations" for landowners that requested more precision, but those determinations were not done pursuant to any surveying standards. In 1997, the Commission analyzed and concluded that about a dozen specific spots on the urban area boundaries of North Bonneville, Stevenson, Cascade Locks, and The Dalles did not follow Congress's intent. The Commission's action was to commit to changing those boundaries through the process specified in section 4(f) of the National Scenic Area Act. The Commission received applications for the Cascade Locks and Stevenson boundaries and approved the changes. In addition, professional surveyors have shown urban area boundaries when preparing plat maps for various purposes. U.S. Forest Service surveying staff assisted or reviewed some of those surveys. The location of urban area boundaries has also been a source of litigation. In 2011, the Gorge Commission received an appeal of a survey prepared for Keith Arndt, which followed several years of litigation (the parties to the appeal ultimately settled the appeal and the Commission accepted the settlement as the urban area

boundary in 2014).

In 2012, the Commission initiated a broad assessment of opportunities for a collaborative engagement process that resulted in identifying some of the critical issues facing the National Scenic Area. One of the most important and challenging issues was policy regarding revising urban areas and the lack of precise urban area boundaries. The Commission then decided that this history of responding to landowners on a case-by-case basis and the lack of a precise boundary for planning purposes required a different approach—that the Commission needed to have a legal description for each of the urban areas. Professional land surveying firms were then contracted to draft written legal descriptions of the NSA's thirteen urban area boundaries. Through this process, surveyors identified several situations where standard surveying practice did not provide a clear approach or methodology for describing the urban area boundaries where the line on the maps and the intent of Congress was not clear.

With the assistance of the William D. Ruckelshaus Center and Oregon Consensus, the Commission used a collaborative process to engage diverse stakeholders throughout the Gorge to provide input and provide recommendations for addressing the issues that the surveyors raised. A neutral process facilitator from the Oregon Consensus Affiliated Practitioner Team, Debra Nudelman of Kearns and West, worked with both a technical workgroup and a stakeholder workgroup to discuss the issues raised by the surveyors. A report was prepared and submitted to the Commission on December 15, 2014 and presented to the Commission at the March 10, 2015 meeting. In March 2016, the Commission approved staff recommendations for addressing the issues discussed in this process which served as the guidance needed to complete the legal descriptions

### **Methodology:**

Throughout 2016, Tenneson Engineering, the Commission's contractor for describing the urban area boundaries, has been creating the final legal descriptions. Tenneson surveyors have generally been describing the boundaries as shown on the 1987 U.S. Forest Service maps. The surveyors have made notes where the 1987 maps differ from the 1986 congressional maps. The Dalles urban area is shown on two different maps—a quad-scale map and a larger-scale planning base maps in both the 1986 and 1987 sets. The Hood River urban area is shown only on a planning base map, not on a quad sheet in the 1986 set, but the 1987 set shows it on both a quad sheet and a planning base map. The surveyors have made notes where these maps differ. The surveyors have also made notes about their use of prior professional surveys and prior staff determinations.

### **Current Status:**

Last month, Tenneson surveyors, Gorge Commission planning staff and legal counsel, and U.S. Forest Service lands staff, surveyor, and legal counsel met to review the legal descriptions. At these meetings we went through every angle point of each legal description and resolved spots where the 1987 maps were ambiguous or where they conflicted with the 1986 maps, and where prior surveys and prior staff determinations conflicted with the surveyors' descriptions.

Commission staff is recommending that the Commission adopt the legal descriptions as a rule, which gives public notice to anyone who wants to know the precise boundaries of the urban areas. These legal descriptions are an interpretation of the maps approved by Congress as part of the National Scenic Area Act.

Tenneson surveyors are also currently working with U.S. Forest Service Surveyor, Stephen Lee, to prepare the legal descriptions in a format that the Forest Service requires to publish the legal descriptions in the Federal Register.<sup>1</sup>

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<sup>1</sup> The Forest Service has told Commission staff that it intends to publish the legal descriptions after surveyors have completed a legal description of the exterior boundary of the National Scenic Area and the Special Management Areas. The Commission's 2016-17 budget includes funds for completing these other legal descriptions.

The written legal descriptions will be the official boundaries that the Commission, U.S. Forest Service, Gorge counties, cities, landowners, and other interested persons must use. Gorge Commission staff has created a digital representation of the urban area boundaries using GIS software to present to the Commission and to have as an illustration of the legal descriptions. The maps are only illustrative and are not official boundary maps. At the Commission meeting, staff will explain why a map illustration is not reliable as the official boundary and why legal descriptions will be the official boundaries.

**Legal Descriptions Format:**

To describe the boundaries, the surveyors have identified important locations and markers known as **angle points**. The surveyors then describe how the angle points are connected to each other by writing narrative **courses**. Below is an illustration of the legal descriptions. On the left is the beginning of the legal description for the Wishram urban area. These are only the first three points out of a total of 13. On the right is a map created by Commission staff to illustrate what these points and courses look like using the commission’s data layers and aerial imagery.

Draft 9/20/2016; Ready for form review and substance review; Not ready for publication

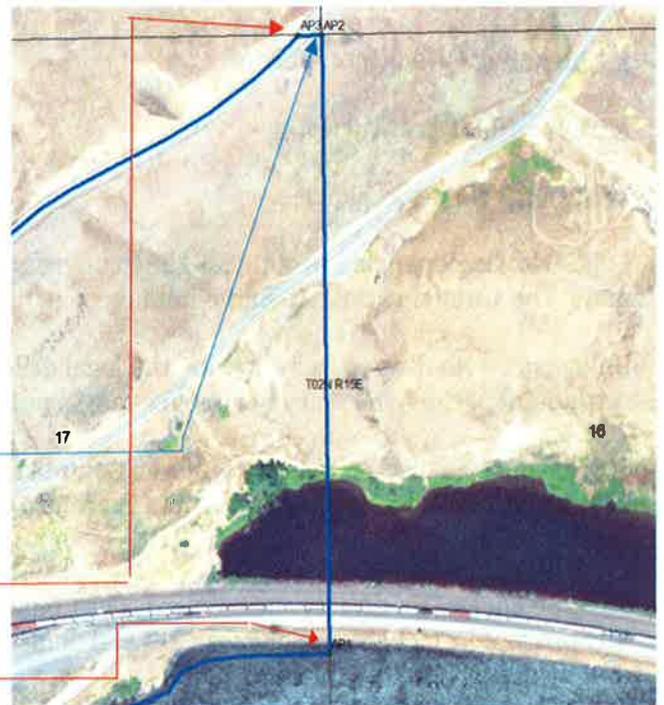
Wishram Urban Area Legal Boundary Description

T. 02 N., R. 15 E., Klickitat County, Washington

**AP 1** Beginning on the line between sections 16 and 17 at the intersection with The Dalles Normal Pool Elevation on the right bank of the Columbia River;  
 Latitude: 45°39'39" W., Longitude: 120°56'48.8" N.;  
 thence on the line between said sections 16 and 17 northerly approximately 1,710 feet to

**AP 2** the corner common to sections 8, 9, 16, and 17;  
 thence on the line between sections 8 and 17 westerly approximately 260 feet to

**AP 3** the intersection with the center line of State Route 14;  
 thence on said center line westerly approximately 5,675 feet to



A copy of the Wishram urban area legal description is attached to this memorandum along with four maps illustrating the boundary. The first map is a portion of the 1986 map from Congress. The second map is a portion of the 1987 map prepared by the Forest Service with the Tenneson surveyors’ points. The third map is a working illustration of the points and course that the Tenneson surveyors prepared. The fourth map is the Gorge Commission’s GIS layer plotted on an aerial image. There were no discrepancies for this urban area, so any differences you see between the maps are the result of hand drawing, projection of the base layer, software or other factors (reasons why maps are unreliable as the official boundaries).

**Presentation at the Gorge Commission Meeting:**

Gorge Commission staff and Ben Beseda of Tenneson Engineering will present the legal descriptions to the CRGC at the October 11, 2016 Commission meeting. We will discuss:

- The history of the project
- The methodology used

- Examples of interpretations and resolutions made by Commission and U.S. Forest Service staff
- Staff recommendation to move forward with rulemaking.

Staff and Mr. Beseda will not be discussing every angle point and course in each of the urban areas. Staff will have illustrative maps if Commissioners have questions about other angle points and courses. Staff can also schedule time at a future Commission meeting prior to adopting the final rule to review all of the angle points—you should plan at least 4 hours for such a presentation. Also prior to adopting the final rule, the Commission staff will be inviting Gorge counties, cities and interested persons for staff presentations to review the legal descriptions in the Commission's office.

### **Summary:**

Below is a summary of discrepancies between the 1986 maps, the 1987 maps, and other prior interpretations that the Commission and U.S. Forest Service staff have discussed and resolved with a few notes.

Carson – No discrepancies.

Home Valley – No discrepancies.

Mosier – No discrepancies.

Wishram – No discrepancies.

Lyle – No discrepancies. Note: The 1986 congressional map shows more angle points than 1987 Forest Service map. The surveyors described the boundary using the 1987 map.

Dallesport – No discrepancies. Note: the legal description incorporates the Commission's approval of the 2014 settlement of the Arndt survey appeal at angle points 23-25.

Stevenson – No discrepancies. Note: the Commission modified the Stevenson boundary through the 4(f) process in 1999 at angle points 3-7 and therefore the legal description does not exactly match the 1986 or 1987 maps.

Cascade Locks - No discrepancies. Note: The Commission modified the Cascade Locks boundary through the 4(f) process in 1999 at angle points 3-9 and angle points 10-24, and therefore the legal description does not exactly match the 1986 or 1987 maps.

North Bonneville – Commission and Forest Service staff resolved the following discrepancies for the North Bonneville boundary.

Along the western boundary, both the 1986 and 1987 maps appear to divide several developed residential parcels in a pre-Act subdivision and a parcel developed as the Beacon Rock Golf Course. In 1997 the Commission concluded that Congress did not intend to divide these parcels by the urban area boundary. Commission and Forest Service staff agreed that the map shows Congress attempted to include the entirety of the subdivision lots in the urban area and thus the legal description at angle points 6-9 describes the boundary as the western boundary of the subdivision. The Commission and Forest Service staff also agreed that while Congress may have intended to include all of the golf course in the urban area, the maps clearly show the urban area boundary splitting the golf course parcel at angle points 9-10 such that describing the urban area boundary to include the entirety of the golf course in the urban area was not an interpretation of the mapped boundary line.

Along the northeast boundary, at angle points 40-45, the 1986 and 1987 maps appear to follow the shape of the boundary of the State of Washington Division of Lands and Minerals tract, yet they do not overlay the

actual boundary. The Commission and Forest Service staff agreed that the maps show Congress attempted to include that tract in the urban area but that the maps are simply skewed relative to the tract and thus angle points 40-45 describe the urban area boundary as the boundary of the tract. The boundary of the tract also coincides with the city limit.

Hood River – Commission and Forest Service staff resolved the following discrepancy for the Hood River boundary.

In the western portion of the urban area, there is a discrepancy between the two 1987 Forest Service maps. The two official maps are shown at different scales. At angle points 43-45, the planning base map shows the UAB running along a long standing section line and running along parcel lines without splitting any parcels. This is consistent with the 1986 map. The quad scale map shows the same line running to the north and west slightly along a random line and splitting several parcels. The Commission staff had previously interpreted the boundary as splitting the parcels; however, the Commission and Forest Service staff agreed that the boundary should be along the established section line as shown. This interpretation is consistent with the 1986 map that was not available at the time of the prior staff determination; as well, the lines that follow angle points 37-43 all cleanly follow section lines. This led staff to believe that the intent of Congress was to follow the section line, as depicted by the 1986 map and the 1987 planning base map.

White Salmon-Bingen (note: this is a combined legal description covering both urban areas)– Commission and Forest Service staff resolved two discrepancies for White Salmon-Bingen boundary.

First, between angle points 10 and 11 the 1986 maps show the boundary running along a natural contour line. The 1987 maps follow a random line that is much straighter. Second, between angle points 19 and 22, the 1986 maps depict a line that intersects the corner of sections 28, 29, 32, and 33. The 1987 maps show the line roughly 140 feet north of that line. In both cases staff interpreted the lines as consistent with the 1987 maps due to recorded surveys in the area that show the line consistent with the 1987 maps.

The Dalles – Commission and Forest Service staff resolved the following discrepancies for The Dalles boundary. Like Hood River, there are two 1987 Forest Service maps showing the boundary at different scales. Both maps appear to show the eastern boundary following a BPA facility. However, the quad map appears to miss the BPA facility boundary just slightly, while the BPA facility is not shown in detail on the planning scale map. The Commission and Forest Service staff agreed that the boundary runs along the BPA facility boundary.

Along the southeast urban area boundary, between angle points 84-86, the large scale 1987 map appears to show the urban area boundary running along the west right-of-way of W 13th St. This line could be interpreted as excluding the pre-Act subdivision (and residentially developed parcels) that are a part of the subdivision across the street which is included in the urban area. Here, Commission and Forest Service staff agreed that Congress did not intend to split the subdivision with the urban area boundary. Instead staff interpreted the urban area line to run along the rear (west) parcel lines of the residences.

### **Next Steps for Rulemaking:**

If the Commission authorizes rulemaking, staff will need to prepare notices of proposed rulemaking for publication in the Oregon Bulletin and the Washington State Register. The staff could publish the draft rule and rulemaking notices in early December, which would allow the Commission to adopt a final rule at its February 2017 meeting.



## Wishram Urban Area Legal Boundary Description

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- AP 4 the intersection with the line between sections 17 and 18;  
thence on the line between sections 17 and 18 northerly approximately  
860 feet to
- AP 5 the corner common to sections 7, 8, 17, and 18, said point being  
monumented with an iron post with a brass cap on top set by the U.S.  
Army Corps of Engineers;  
thence on the line between sections 7 and 8 northerly approximately  
410 feet to
- AP 6 a point on the line between sections 7 and 8 at the intersection with a  
line offset North of the line between sections 7 and 18 extending east  
and west through the northmost corner of Lot 4 of Short Plat SP 90-05;  
thence parallel with said line between sections 7 and 18 westerly  
approximately 3,315 feet to
- AP 7 the northmost corner of said Lot 4;  
thence continuing westerly parallel with said section line approximately  
1,300 feet to
- AP 8 the intersection with the northerly projection of the west line of Lot 1 of  
said Short Plat SP 90-05;  
thence along said projection of the west line of said Lot 1, identical with  
the west line of said Short Plat SP 90-05, and the southerly projection  
thereof southerly a distance of 1,957 feet to
- AP 9 a random point;  
thence easterly approximately 3,710 feet to
- AP 10 the intersection of an unnamed drainage and 400 foot contour;  
thence downstream along said unnamed drainage southeasterly  
approximately 710 feet to
- AP 11 the point at which the natural drainage becomes a manmade channel,  
identical with the northwest corner of Lot 3, Short Plat G-18;  
thence along the westerly line of said Lot 3 and the projection thereof  
southeasterly approximately 675 feet to
- AP 12 the intersection with the east and west center line of said section 18;  
thence parallel with the line between sections 17 and 18 southerly  
approximately 1,025 feet to
- AP 13 the intersection with aforementioned Normal Pool Elevation;  
thence at said Normal Pool Elevation northeasterly approximately 6,000  
feet to
- AP 1 the **Point of Beginning.**

## Wishram Urban Area Legal Boundary Description

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the Area being \_\_\_\_\_ Acres, more or less.

### FOOTNOTES:

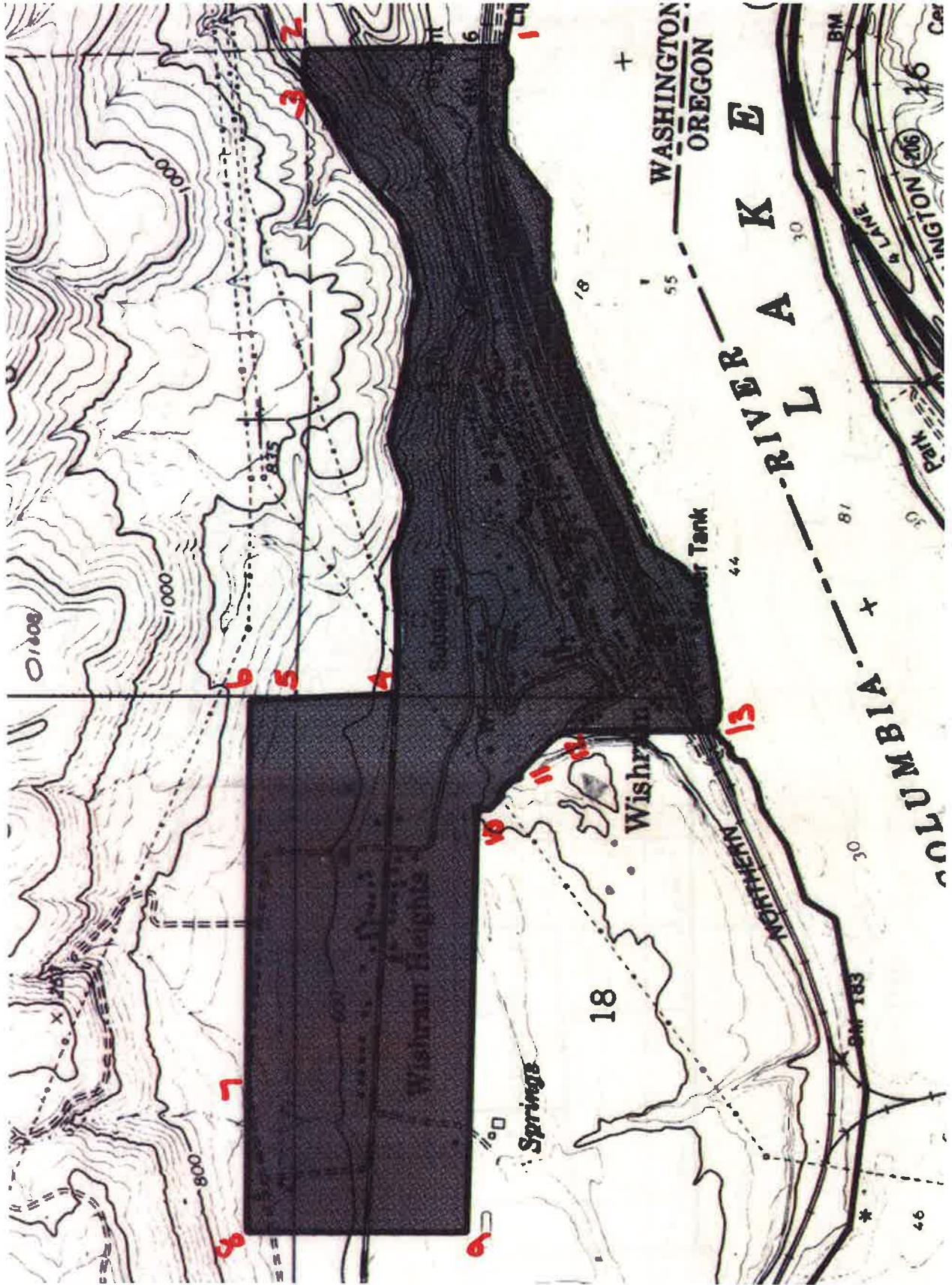
1. The Dalles Dam Normal Pool elevation is listed as elevation 160 on the Columbia River Gorge National Scenic Area (C.R.G.N.S.A.) Urban Area Map 25.
2. Short Plat 90-05, recorded October 22, 1990 at Auditor's File No. 220700 (Vol. 2 of Short Plats, Pg. 60), records of Klickitat County.
3. Elevations calls are National Geodetic Vertical Datum of 1929 (NGVD 29).
4. Short Plat G-18, recorded May 15, 1975 at Auditor's File No. 152475, deed records of Klickitat County.
5. The described location is in agreement with the survey for Gloria Flock completed by Jesse Garner, WA PLS No. 42687, of Pioneer Surveying and Engineering, recorded November 29, 2011 at Auditor's File No. 1095717, deed records of Klickitat County. See also Gorge Commission letter to Gloria Flock dated November 22, 2011.
6. Both the 1986 Congressional Map (CSW-UA-004, Sheet 11) and the 1987 USFS Map (Sheet 25) were studied for preparation of this description. No differences of significance between the two maps were found.
7. I reviewed the planning map dated October 6, 1989 and initialed by Gorge Commission planner Jim Johnson. The map depicts the line between the GMA and Wishram UA and includes some dimensioning. I believe this map was completed to allow completion of Short Plat No. SP-90-05, which was recorded October 22, 1990 (Klickitat Co. Auditor's File #220700). My UA description is generally consistent with this map. I call to the west line of Lots 1 and 2 in this short plat so will match up on the 700 foot distance from the west line of Section 18. My call north of the north line of Section 18 is approximately 409 feet, not 400, but feel using the point of the old county road to locate this section of the UA line is more consistent with the USFS and Act maps than the Johnson map. I also see no conflict with the decision in describing the UA in this fashion. My call south from the north line of Section 18 is about 1,560 feet, which is longer than the 1,500 used by Johnson. Not knowing how Johnson developed his distance, I have left my dimensioning as I developed from the USFS and Act maps. My description could be modified to match the Johnson map without significant overall impact. If the Johnson dimension was used for development in this location it should be honored.
8. I reviewed the planning map dated May 22, 1990 and initialed by Gorge Commission planner Steve Kinsey (?). The map depicts the line between the GMA and UA along a portion of the southwest side of Wishram. The map does not include any dimensioning. It does call out the center line of a drainage. This description also calls to the drainage. Overall I believe my description to be generally consistent with this map. I do not know why this map was developed or if any land use actions were taken based on it.

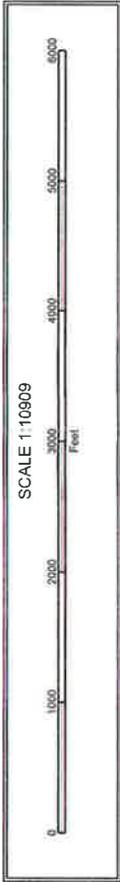
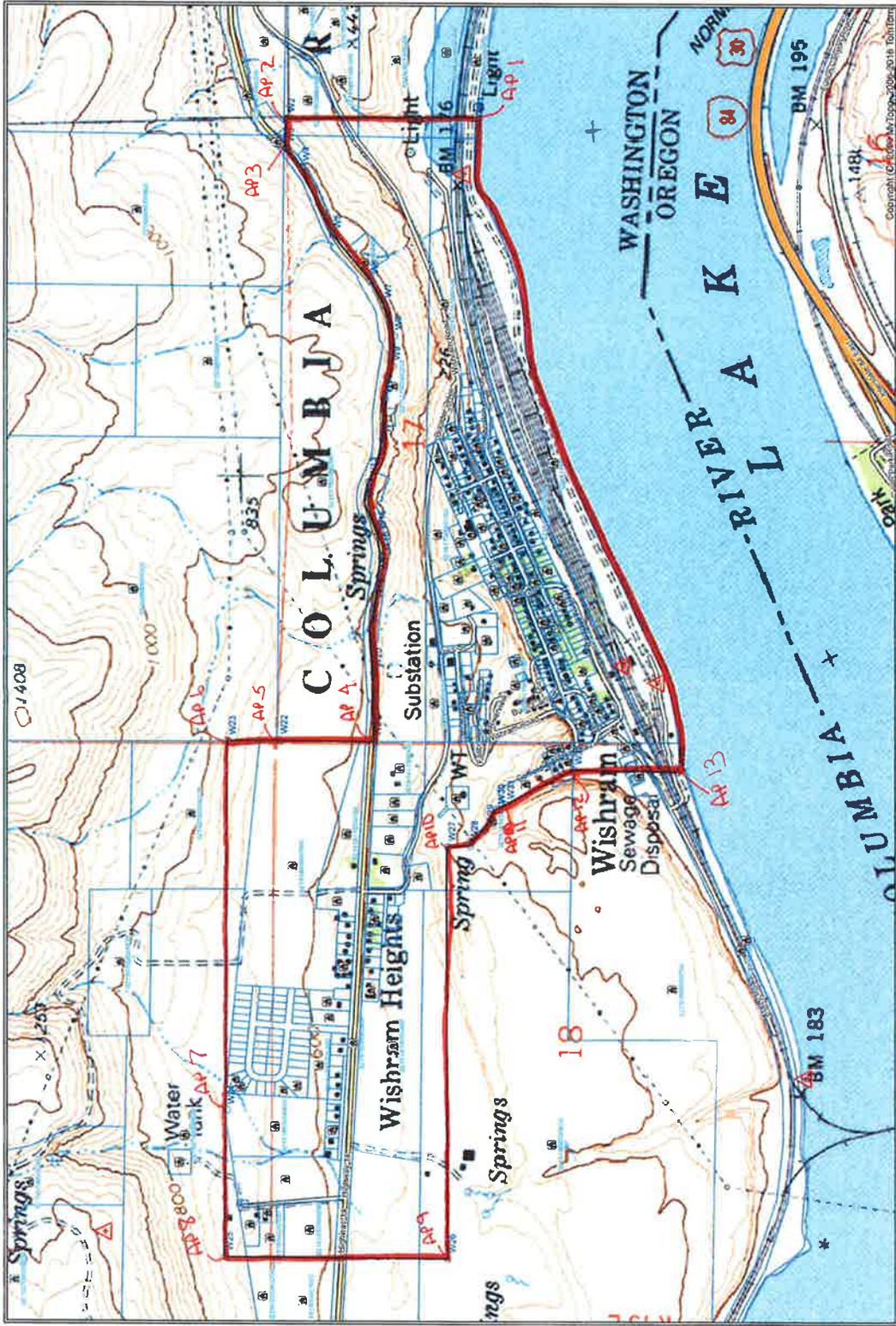
## Wishram Urban Area Legal Boundary Description

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9. The coordinate (latitude, longitude) positions shown hereon are GIS derived and are intended for general location purposes only. The description is to be used based on the physical monument and metes and bound calls.







# Wishram Urban Area Boundary CRGC Produced Map

