

DIRECTOR'S DECISION

APPLICANT: Charles Fowler

LANDOWNER: Charles and Valerie Fowler

FILE NO.: C17-0007

REQUEST: To plant approximately 16 acres of vineyard with associated agricultural structures, and surrounded by an 8-foot woven deer fence, and to install a 10,000-gallon water tank. Proposed vineyards are located within existing open rangeland and an existing orchard plot.

LOCATION: The subject parcel is located at 381 Old Highway 8, Lyle, WA, in Section 30, Township 3 North, Range 12 East. Klickitat County Parcel Number 03123000000400.

LAND USE DESIGNATION: The subject property is designated Agriculture in the Special Management Area (SMA) and is 55.95 acres in size. See Finding A.2 below for discussion of parcel size.

DECISION:

Based upon the following findings of fact, the land use application by Charles Fowler to develop new cultivation with associated agricultural structures and to install surrounding deer fencing as described above is consistent with the standards of Section 6 and the purposes of the Columbia River Gorge National Scenic Area Act P.L. 99-663, and the Management Plan for the Columbia River Gorge National Scenic Area, and approvable under Commission Rule 350-81 and is hereby **approved**.

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 the Columbia River Gorge National Scenic Area Act, and the Management Plan and approvable under Commission Rule 350-81.

1. **To ensure notice of the conditions to successors in interest, this Director's Decision, Staff Report for C17-0007, and approved site plan shall be recorded in county deeds and records at the Klickitat County Assessor's Office. Once recorded, the applicant shall submit a copy of the recorded document to the Executive Director at the Commission.**
2. All trellis materials, fencing, and irrigation lines shall be non-reflective and black or dark earth tone in color. If metal end posts are used, these shall be painted matte black or pre-weathered to achieve a non-reflective and dark appearance. Materials shall be approved by Commission staff prior to installation.

3. The development shall be constructed as described and shown on the approved project description, site plan and plant rehabilitation plan. Any changes shall be reviewed and approved by the Executive Director before the changes are implemented. Any future ground-disturbing activities or new uses are subject to additional review.
4. No outdoor lighting was proposed in association with this development. Should any future outdoor lighting be needed, the applicant shall request Commission review of the proposed design and sighting prior to installation. Any exterior lighting shall be sited, limited in intensity, shielded, or hooded in a manner that prevents lights from being highly visible from key viewing areas and from noticeably contrasting with the surrounding landscape setting, except for road lighting necessary for safety purposes.
5. The applicant shall implement the plant rehabilitation plan as described.
 - The applicant shall establish native plants, including Thompson's broad-leafed lupine, few-flowered collinsia, poet's shooting star, and alumroot, as described in the attached plant rehabilitation plan. Native shrubs (described below in the findings for deer and elk winter range habitat) shall be planted along draws and identified movement corridors to enhance habitat for deer. Prior to planting these native species, the applicant shall submit for approval to the Executive Director a detailed replanting plan with each new plant identified clearly on a map and long-term maintenance described. This plan shall be submitted within 9 months of this Director's Decision.
 - The applicant shall complete all plant rehabilitation actions within 2 years. The applicant shall ensure that the planted area maintain at least 75 percent live native plant cover. Shrubs that do not survive shall be replaced; consultation with professional botanists may be required to identify more suitable species, locations, or conditions for survival.
 - Vehicle travel and grazing within the planted area shall be minimized to the greatest extent practicable.
 - For each of the 5 years following implementation of this replanting plan, the applicant shall prepare and submit to the Executive Director an annual report documenting survival rate and additional necessary actions taken by the applicant. The reports shall be completed by a professional ecologist or botanist and include georeferenced photographs. Each report shall demonstrate how the conditions of approval above have been met and maintained.
6. Gates shall be installed at the north and south ends of each vineyard block. These shall be opened seasonally to allow deer access during harsh winter months. All new or replacement cattle and property fencing shall be installed to wildlife-friendly specifications outlined in the attached staff report, namely:
 - (a) To make it easier for deer to jump over the fence, the top wire shall not be more than 42 inches high.
 - (b) A gap of at least 10 inches shall be maintained between the top two wires.
 - (c) The bottom wire shall be at least 16 inches above the ground and shall consist of smooth wire.
7. As described in Marge Dryden's cultural survey determination, the applicant shall maintain a buffer of at least three feet around the rock wall feature. The applicant must avoid driving farm equipment within the site buffer and shall not add, remove or replace stones to the wall, or take any action that

would damage the integrity of the wall. No construction or new cultivation shall take place within this buffer without additional review and approval by the Commission.

8. If cultural resources are discovered during construction activities, all 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.
9. If human remains are discovered during construction activities, all activities shall cease upon their discovery. Local law enforcement, the Executive Director, Indian Tribal governments and the Washington State Department of Archaeology and Historic Preservation and the Washington State Anthropologist shall be contacted immediately. Further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.
10. The applicant shall notify the Gorge Commission within 30 days of project completion to arrange for an inspection to confirm compliance with conditions of approval. Project completion means installation of all new structures and establishment of the new agricultural use.

DATED AND SIGNED THIS 16 day of October 2017 at White Salmon, Washington.



Krystyna U. Wolniakowski
Executive Director

EXPIRATION OF APPROVAL:

Commission Rule 350-81-044 governs the expiration of this Director's Decision.

This decision of the Executive Director becomes void on the 16 day of October 2019 unless construction has commenced in accordance with Commission Rule 350-81-044(4).

Commission Rule 350-81-044(4) specifies that commencement of construction means actual construction of the foundation or frame of the approved structure. For utilities and developments without a frame or foundation, commencement of construction shall mean actual construction of support structures for an approved above ground utility or development or actual excavation of trenches for an approved underground utility or development. For purposes of this project, end posts and fence posts constitute support structures for the approved above ground development.

Construction must be completed within two years of the date that the applicant commenced construction. Once the applicant has commenced construction of one element in this decision, the applicant will need to complete all elements in this decision in accordance with Commission Rule 350-81-044. The Commission does not use different "commencement of construction" dates for different elements in this decision.

The applicant may request one 12-month extension of the time period to commence construction and one 12-month extension to complete construction in accordance with Commission Rule 350-81-044(6). The applicant must submit the request in writing prior to the expiration of the approval. If the applicant requests an extension of time to complete construction after commencing construction, the applicants shall specify the date construction commenced. The Executive Director may grant an extension upon determining that conditions, for which the applicants were not responsible, would prevent the applicants

from commencing or completing the proposed development within the applicable time limitation. The Executive Director 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 on the 15 day of November, 2017.

The decision of the Executive Director is final unless the applicant or any other person who submitted comment files a Notice of Intent to Appeal and Petition with the Commission within thirty (30) days of the date of this decision. Information on the appeal process is available at the Commission office.

NOTES:

Any new land uses or structural development such as driveways, parking areas, garages, workshops, fences or other accessory structures; or additions or alterations not included in the approved application or site plan will require a new application and review. New cultivation also requires a new application and review.

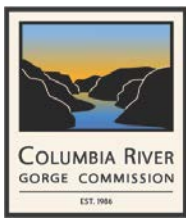
This decision does not address local, state, or federal requirements that may be applicable to the proposed development. The landowner is responsible for obtaining all applicable county, state, or federal permits required for the development.

COPIES OF THIS DECISION SENT TO:

Confederated Tribes and Bands of the 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 Department of Archaeology and Historic Preservation
Klickitat County Planning Department
Klickitat County Building Department
Klickitat County Health Department
Klickitat County Auditor
Klickitat County Public Works
Washington Natural Heritage Program
Washington Department of Fish and Wildlife
Friends of the Columbia Gorge

Attachments:

Staff Report C17-0007
Approved Site Plan
Final Plant and Habitat Mitigation Plan



FACTS AND FINDINGS COLUMBIA RIVER GORGE COMMISSION STAFF REPORT

APPLICANT: Charles Fowler

LANDOWNER: Charles and Valerie Fowler

FILE NO.: C17-0007

REQUEST: The Columbia River Gorge Commission received an application to plant approximately 16 acres of vineyard and associated agricultural structures, fenced with an 8-foot woven deer fence. A new 10,000-gallon water tank is to be buried just west of the existing barn building. Proposed vineyards are located within existing open rangeland and an existing orchard plot.

LOCATION: The subject parcel is located at 381 Old Highway 8, Lyle, WA, in Section 30, Township 3 North, Range 12 East. Klickitat County Parcel Number 03123000000400.

LAND USE

DESIGNATION: The subject property is designated Agriculture in the Special Management Area (SMA) and is 55.95 acres in size. See Finding A.2 below for discussion of parcel size.

COMMENTS FROM INDIVIDUALS/AGENCIES/GOVERNMENTS:

Notice of the subject request was mailed to property owners within 500 feet of the subject parcel and the following organizations/agencies/governments:

Confederated Tribes and Bands of the 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 Department of Archaeology and Historic Preservation
Klickitat County Planning Department
Klickitat County Building Department
Klickitat County Public Works Department
Klickitat County Health Department
Klickitat County Assessor
Skamania County Planning Department
Washington Natural Heritage Program
Washington Department of Fish and Wildlife
Friends of the Columbia Gorge

The written comment period began on May 1, 2017 and ended May 22, 2017. Written comments were received from the following parties:

Amber Johnson, Washington Department of Fish and Wildlife
Marge Dryden and Chris Donnermeyer, U.S. Forest Service, National Scenic Area
Philip Rigdon, Confederated Tribes and Bands of the Yakama Nation, Department of Natural Resources
Steve McCoy, Friends of the Columbia River Gorge

The comments received are addressed in the following findings of fact.

FINDINGS OF FACT:

A. Land Use

1. The subject property is in the Special Management Area (SMA) and is designated Agriculture.
2. The subject parcel is actually a tax lot (not a legal parcel) at this time; it was not legally divided from the tax lots to the east. Another land division application (C17-0011) is currently being reviewed, which will result in approval of a land division of the subject parcel from several adjoining tax lots to the east, some of which are not currently recognized by the Commission as legal parcels. The applicable review use provisions for Mr. Fowler's application for new cultivation and new agricultural structures does not specifically require a demonstration of whether the 55.95 acre tax lot is a legal parcel; nevertheless, the end result of this application and the concurrent and division application will be approval of a land division. Mr. Fowler and the adjoining landowners will need to follow through with that approval and legally divide the subject parcel from the adjoining tax lots.
3. The parcel includes an existing single-family dwelling, access road and parking area, garage, barn, sheds, and water reservoir. Based on information provided by the Klickitat County Assessor and the applicant, the subject parcel is managed for agricultural use (grazing land/rangeland). The property includes an abandoned fruit tree orchard. Upon review, staff discovered much of the property has been plowed and cultivated in the past. There is an existing well and main irrigation line. The applicant has determined this will be sufficient for the vineyards and proposes only above ground irrigation lines to extend into the rows. In September, the applicant determined that a new 10,000-gallon fiberglass water tank would need to be installed within the area previously surveyed. This tank is included in the final site plan and was included in this review for new development.
4. The proposed development would install approximately 16 acres of vineyard in two blocks. The applicant originally proposed three blocks, but removed Block 2 from the application (See email from Chip Fowler to Jessica Gist, May 22, 2017 6:16 pm).
5. The applicant had soil test pits dug prior to submitting an application. The test pits were reviewed as an after-the-fact element of this review. Any future vineyard development, including testing the soils for depth and suitability for growing wine grapes must be evaluated by the Columbia River Gorge Commission before any ground-disturbing activity to determine if a new land use application is required.
6. The applicant proposes to install trellises, drip lines from an existing underground irrigation system, and an 8-foot-high woven wire game fence around each block to protect the vines and grapes from cattle and deer. The total length of the fencing would be approximately 6,070 feet.

The proposal does not include any new roads and the applicant's narrative states that existing roads will not need to be modified. New roads or existing road modifications would require a new land use application and review by the Columbia River Gorge Commission.

7. Commission Rule 350-81-190(2) lists review uses that may be allowed on lands designated SMA Agriculture, subject to compliance with scenic, cultural, natural, and recreation resources guidelines (350-81-520 through 350-81-620). The use or development shall be sited to minimize the loss of land suitable for the production of agricultural crops or livestock. The proposed development is for a new agricultural use. The applicant does not propose non-agricultural uses or structures. Therefore, no land will be made unsuitable for agriculture.

Commission Rule 350-581-190(2)(a) allows new cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas.

Commission Rule 350-81-190(2)(e) allows agricultural structures, except buildings, in conjunction with agricultural use.

The proposed vineyard will be located in an abandoned orchard area and pasture and the applicant will use existing irrigation pipeline. Any future replacement or expansion of the irrigation system will be subject to applicable National Scenic Area review. A portion of the area has been previously disturbed as a result of the orchard and pipeline installation. The remainder of the new cultivation and new fencing will be in an area previously grazed and mostly plowed. The applicant proposes agricultural structures, new trellises, deer exclusion fencing, and above-ground irrigation lines as part of the development. Commission Rule 350-81-074(1)(a)(G) allows wire-strand fences less than or equal to 48 inches in height outside of deer and elk winter range without review. The subject fence requires review because the applicant proposes an 8-foot high fence, and the proposal is located within deer and elk winter range (see Natural Resource findings below).

Conclusion:

The proposed new cultivation and agricultural structures may be allowed on the subject parcel if the use will not adversely affect scenic, cultural, natural, or recreation resources. The project shall be reviewed for consistency with the applicable guidelines to protect scenic, cultural, natural, and recreation resources in the National Scenic Area.

B. Scenic Resources

1. Commission Rule 350-81-530(1)(a) includes design guidelines for all new uses in the Pastoral landscape setting within the SMA, regardless of visibility from Key Viewing Areas (KVAs).

The proposed vineyard is located in the Pastoral landscape setting. Commission Rule 350-81-530(1)(a)(A) states that Pastoral areas shall retain the overall appearance of an agricultural landscape. The use of plant species common to the landscape setting is encouraged and the use of plant species in rows, as commonly found in the landscape setting, is encouraged.

Vineyards are common in the Pastoral landscape setting in the eastern gorge. The subject parcel is approximately 0.4 miles west of other parcels in its landscape setting with active row crop agriculture. Row crops are also common in the surrounding oak woodland parcels. The applicant's project description states that the vineyards will be planted in rows. The trellis structures and deer fencing are also common elements of vineyards in the area.

Conclusion:

Both the new cultivation land use and the new agricultural structures proposed are consistent with the Pastoral Landscape Setting.

2. Commission Rule 350-81-530(2) includes guidelines for development and uses visible from KVAs.
3. Commission Rule 350-81-530(2)(a) states, "The guidelines in this section shall apply to proposed developments on sites topographically visible from key viewing areas."

An initial review of the Commission's spatial data indicated the subject parcel is potentially visible, according to the Commission's Seen Areas model, from seven key viewing areas (KVAs). Subsequent site visits and GoogleEarth tools confirmed that portions of the project area are visible from the Columbia River, Rowena, Cook-Underwood Road, Historic Columbia River Highway, Interstate 84, Old Highway 8, and State Route 14. Therefore, Commission Rule 350-81-530(2) guidelines are applicable.

The proposed vineyard will be planted in open areas on a slope that ranges from 360 feet in elevation at the south extent of the new vineyard to 440 feet in elevation at the north extent of the vineyard. The slope, and each open area to be planted, is oriented northeast to southwest so that it is topographically screened from KVAs to the east and in part from those at lower elevation.

4. Commission Rule 350-81-530(2)(b) states, "New developments and land uses shall be evaluated to ensure that the required scenic standard is met and that scenic resources are not adversely affected, including cumulative effects, based on the degree of visibility from key viewing areas." The required scenic standard for all development and uses in the Pastoral Landscape Setting is Visually Subordinate. Commission Rule 350-81-020(170) defines visually subordinate.

Visually subordinate: A description of the relative visibility of a structure or use where that structure or use does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point (generally a key viewing area, for the Management Plan). As opposed to structures that are fully screened, structures that are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings. . . .

The proposed vineyard is potentially visible from seven KVAs. A small portion of the planted area may be visible from the Cook-Underwood Road, however at a distance of 8.5 miles the development will not be distinguishable and thus will appear visually subordinate to the landscape from this view.

The lower third of the proposed planted area is topographically visible from Old Highway 8 for a stretch of less than one tenth of a mile.

The proposed planted area is visible from Rowena at a distance of 3 miles away, and from the Columbia River, Historic Columbia River Highway, Interstate 84, and State Route 14. From these KVAs, agricultural structures including trellises and end posts and deer fencing will be visible. In order to meet the scenic standard of visually subordinate, and as described in SMA Guidelines for

Development and Land Uses Visible From KVAs (6)(B)(3), agricultural structures shall be dark in color and constructed of non-reflective materials (see finding 7 below).

The subject parcel contains mature, native conifers and Oregon white oak, none of which are proposed to be removed. These grow along existing drainages, generally in a southwest to northeast configuration. Block 1 is partially screened by two rows of mature conifers lining the southwestern and southeastern boundaries. Additionally, a drainage lines the southeastern boundary of Block 1. Block 3 also has mature, conifers to the south. The applicant has stated he may plant additional native trees along the drainage located in the center of Block 3 to reinforce the windbreak.

The proposed new agricultural use would be visually subordinate from the view of KVAs within three miles due to distance, topography, and vegetation. The addition of grape vines planted in rows is consistent with the Pastoral Landscape Setting. Commission Rule 350-81-530(1)(a) states “The use of plant species in rows, as commonly found in the landscape setting, is encouraged.” The proposed use is an agricultural use and will retain the overall appearance of an agricultural landscape. Agricultural structures, including materials and colors, are addressed below.

5. Commission Rule 350-81-530(2)(d) states, “In all landscape settings, scenic standards shall be met by blending new development with the adjacent natural landscape elements rather than with existing development.”

As previously mentioned, the vineyard will retain the overall appearance of an agricultural landscape and will therefore effectively blend with the adjacent natural landscape elements. Grazing has been a dominant agricultural use in this region of the National Scenic Area, however vineyards are becoming more common. The subject parcel is approximately 0.4 miles west of other parcels in its landscape setting with active row crop agriculture. Row crops are also common in the surrounding oak woodland parcels. The applicant’s project description states that the vineyards will be planted in rows.

6. Commission Rule 350-81-530(2)(e) states, “Proposed developments or land uses shall be sited to achieve the applicable scenic standard. Development shall be designed to fit the natural topography, to take advantage of landform and vegetation screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics. When screening of development is needed to meet the scenic standard from key viewing areas, use of existing topography and vegetation shall be given priority over other means of achieving the scenic standard such as planting new vegetation or using artificial berms.”

The proposed vineyard is partially screened from KVAs by existing topography and mature trees located both on and off the subject parcel. Conditions of approval will ensure that materials and colors meet the visually subordinate standard of the Pastoral landscape setting (see Finding 7 below). The vineyard will preserve and utilize the existing landform to retain the slope and aspect ideal for favorable growing conditions. Ground disturbance will be limited to that necessary for installing the trellis system, vines, and fencing. As a result, no new landscaping or other conditions are needed in order to achieve the visually subordinate standard in this instance. However, the applicant has proposed to plant native vegetation as mitigation for adverse impacts to natural resources (see Section D. Natural Resources below).

7. Commission Rule 350-81-530(2)(f) states, “The extent and type of conditions applied to a proposed development or use to achieve the scenic standard shall be proportionate to its degree of visibility from key viewing areas.
- (A) Decisions shall include written findings addressing the factors influencing the degree of visibility, 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, and
 - (v) The linear distance along the key viewing areas from which the building site is visible (for linear key viewing areas, such as roads).
 - (B) Conditions may be applied to various elements of proposed developments to ensure they meet the scenic standard for 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),
 - (ii) Retention of existing vegetation,
 - (iii) Design (color, reflectivity, size, shape, height, architectural and design details and other elements), and
 - (iv) New landscaping.”

The applicant has not proposed to remove any native trees; the applicant proposes to remove only abandoned orchard trees and Himalayan blackberry. The new cultivation meets the visually subordinate standard for the Pastoral Landscape Setting. However, the new agricultural structures have potential to affect the natural characteristics of the Landscape Setting.

A condition of approval requires the new structures to be non-reflective and black or dark earth tone in color. Trellises shall be dark wood or alternative material and color approved by Commission staff. If metal end posts are used, these shall be painted matte black or pre-weathered to achieve a non-reflective and dark appearance. Deer fencing shall be matte black or other material and color approved by Commission staff.

8. Commission Rule 350-81-530(2)(g) states, “Sites approved for new development to achieve scenic standards shall be consistent with guidelines to protect wetlands, riparian corridors, sensitive plant or wildlife sites and the buffer zones of each of these natural resources, and guidelines to protect cultural resources.”

As addressed in Sections C and D, the proposed development is consistent with the applicable cultural resource guidelines in Commission Rule 350-81-550 and natural resource guidelines in Commission Rule 350-81-600.

9. Commission Rule 350-81-530(2)(h) states, “Proposed developments shall not protrude above the line of a bluff, cliff, or skyline as seen from key viewing areas.”

The vineyard will be located on a south/southwest slope, and will be well below the skyline above. The existing trees adjacent to the proposed vineyards are much taller than the vineyards will be and those trees do not protrude above the skyline as seen from key viewing areas. The proposed vineyards and trellises will not protrude above the line of a bluff, cliff, or skyline as seen from KVAs.

10. Commission Rule 350-81-530(2)(j) includes that the following guidelines applicable to new landscaping used to screen development from key viewing areas:
 - (A) New landscaping (including new earth berms) to achieve the required scenic standard from key viewing areas shall be required only when application of all other available guidelines in this chapter is not sufficient to make the development meet the scenic standard from key viewing areas. Development shall be sited to avoid the need for new landscaping wherever possible.
 - (B) If new landscaping is necessary to meet the required standard, existing on-site vegetative screening and other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any vegetation planted pursuant to this guideline shall be sized to provide sufficient screening to meet the scenic standard within five years or less from the commencement of construction.
 - (C) Landscaping shall be installed as soon as practicable, and prior to project completion. Applicants and successors in interest for the subject parcel are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.
 - (D) The *Scenic Resources Implementation Handbook* shall include recommended species for each landscape setting consistent with the Landscape Settings Design Guidelines in this chapter, and minimum recommended sizes of new trees planted (based on average growth rates expected for recommended species).

The proposed vineyard is partially screened from KVAs by existing topography and vegetation located both on and off the subject parcel. With conditions of approval described above, the development meets the visually subordinate standard. No new landscaping is needed in order to achieve the visually subordinate standard in this instance.

11. Commission Rule 350-81-530(2)(m) states, "Any exterior lighting shall be sited, limited in intensity, shielded, or hooded in a manner that prevents lights from being highly visible from key viewing areas and from noticeably contrasting with the surrounding landscape setting, except for road lighting necessary for safety purposes."

Even though no exterior lighting is indicated on the applicant's site plan, the Commission is aware that exterior lighting is often placed after completion of new development, so the Commission always adds a **condition of approval** stating that if outdoor lights are proposed on the subject parcel, the applicant shall show them on a revised site plan and submit the proposed design and placement of the lights to the Gorge Commission for the review and approval. All outdoor lights shall be directed downward, hooded, and shielded so as not to be highly visible as seen from the KVAs.

12. Commission Rule 350-81-530(3) contains guidelines for all new developments and land uses within KVA foregrounds and immediately adjacent to scenic routes.

SR 14 is listed as a Scenic Travel Corridor in Commission Rule 350-81-020(133).

The proposed vineyards will be set back more than 1,000 feet from SR 14 and therefore are not immediately adjacent to SR 14 or in the immediate foreground of a KVA. Commission Rule 350-81-530(3) does not apply.

Conclusion:

The proposed vineyard is visually subordinate as seen from KVAs. The planned retention of existing trees will provide partial visual screening of the site. Materials are required to be non-reflective and dark in color. With these conditions, the proposed development is consistent with the applicable guidelines in Commission Rule 350-81-530 and 350-81-530 that protect scenic resources in the National Scenic Area.

C. Cultural Resources

1. Commission Rule 350-81-550(2) directs proposed developments in the SMA to use the procedures and guidelines in Commission Rule 350-81-540 for review. Commission Rules 350-81-540(1)(c)(A) and (B) include guidelines to determine when a cultural resources reconnaissance survey and a historic survey are required for proposed developments.
2. Commission Rule 350-81-540 provides direction for cultural resources review of non-federal development projects in all land use designations. Commission Rule 350-81-540(1)(c) requires that a reconnaissance survey be conducted for the proposed small-scale undertaking.

The applicant dug soil test pits prior to the application being accepted by the Commission. All of the test pits occurred within the area proposed to be planted and that was surveyed for cultural resources. The Commission discussed with the applicant that soil test pits are a geotechnical exploration activity, subject to NSA review in the future.

Marge Dryden, Heritage Program Manager for the USFS National Scenic Area office, provided a letter dated April 13, 2017 indicating that while the applicant was not required to fund the required reconnaissance survey in this case, he had chosen to do so in order to save time. The applicant selected a qualified professional and Ms. Dryden coordinated with the consultant to ensure the appropriate standards of survey and reporting were met.

On May 19, 2017, Marge Dryden, Heritage Program Manager, U.S. Forest Service, Columbia River Gorge National Scenic Area Office, provided a letter of review for the cultural resources completed survey.¹ An intensive reconnaissance survey was undertaken and 16-acres were surveyed, which encompassed Blocks 1, 2, and 3. The “biscuit land” to the north was not included in the archaeological survey and future investigations of soil depth in this area cannot be permitted without applicable cultural resources review.

No prehistoric archaeological resources were found within the current project area. One historic-era (c1930) stacked stone wall (45KL2358) was identified and recorded on a Department of Archaeology and Historic Preservation (DAHP) archaeological site inventory form. The stacked stone wall is approximately 0.25-miles long. Only the 275-foot long section that occurs within Block 1 was documented:

“Site 45KL2358 is unevaluated for the NRHP [National Register of Historic Places] as not enough information has been collected on the stacked rock wall to make a recommendation of NRHP eligibility. Construction of the proposed vineyard will avoid the wall and will not be impacted by the project (Swanson and Tisdale 2017:11).”

Swanson and Tisdale concluded:

¹ Swanson, Ryan and Lucie Tisdale. 2017. “Cultural Resources Survey for the Development of the Fowler Farm Vineyard, Klickitat County” DAHP Project number 2017-04-02909.

“AINW [Archeological Investigations Northwest, Inc.] has completed cultural resource survey for the development of a vineyard on the Fowler Farm near Lyle, Washington. The cultural resources survey included a records review and a pedestrian survey. The ground throughout the farm has been substantially disturbed with the development of the fruit orchard and the installation of underground irrigation pipes. A historic-period stacked rock wall (45KL2358) was identified in the project APE and documented. Construction activities will avoid the wall and it will not be impacted by the project. No other historic period or pre-contact cultural material was observed during the survey. Based on this information, AINW recommends a finding of “No Historic Properties Affected” for the project and no further archaeological work is required (Swanson and Tisdale 2017:11).”

Ms. Dryden concurred with the finding that insufficient information has been collected on site 45KL2358 in order to base a finding of significance. The site remains unevaluated. The site is located along the south side of the existing farm road, as it has since the wall was constructed in the 1930s. Neither the vineyard plantings nor irrigation lines will affect the structure. Since the site has not been evaluated for significance, a site buffer is required. **A condition of approval** states the proposed new vineyard and irrigation lines shall be installed at a minimum distance of three feet from the rock wall. If this distance is observed, further mitigation measures are unnecessary. The applicant must also avoid driving farm equipment within the site buffer and shall not add, remove or replace stones to the wall, or take any action that would damage the integrity of the wall. If the applicant wants to undertake any activities within the site buffer, the applicant shall contact the Gorge Commission to discuss requirements for an evaluation of significance and subsequent requirements to ensure protection of this cultural resource. The evaluation of significance and subsequent requirements are the financial responsibility of the applicant.

In September, the applicant requested that a new water tank be included in the project proposal. He provided an updated project narrative and description of the tank, as well as the location. Staff consulted with Chris Donnermeyer at the USFS NSA office and determined that adverse impacts could be avoided if the tank is placed directly west of the barn building within the surveyed area. The tank location has been included on the final approved site plan.

3. Commission Rule 350-81-540(1)(c)(B) requires a historic survey for 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."

Ms. Dryden concurred with the cultural resources survey report finding that this project will have no effect, “No Historic Properties Affected.”

4. Commission Rule 350-81 540(2)(a)(A) allows that within the comment period, an interested party may request consultation with the project applicant regarding cultural resources.

The Confederated Tribes and Bands of the Yakima Nation submitted a comment letter regarding cultural resources. The Yakama Nation commented that this site has a high probability of cultural resources and known sites near the project area and that a cultural resources survey is required. Staff followed up with a phone call to explain that the applicant had initiated a survey by a qualified contractor. The cultural survey report and letter of review were provided to the four treaty tribes and the state Department of Archaeology and Historic Preservation (DAHP) for

review on May 22, 2017. No additional comments were received from any party during the cultural survey report comment period.

5. Commission Rules 350-81-540(6)(a) and (b) require 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.

Conclusion:

The proposed development is consistent with the applicable cultural resource guidelines in Commission Rule 350-81-550 with the following **conditions of approval**:

- Provisions for the inadvertent discovery of cultural resources and discovery of human remains, including notification of the State Physical Anthropologist Dr. Guy Tasa at (360) 586-3534 or guy.tasa@dahp.wa.gov.
- The proposed vineyard and irrigation lines shall maintain a distance of three feet from the rock wall (45KL2358).
- Vehicle and equipment travel shall be limited to the vineyard area inside the game fence and only used during the initial installation of the vines.
- To protect unidentified cultural resources, any future geotechnical or soil investigations outside the project area shall not occur without further archaeological review.

D. Natural Resources

1. Commission Rules 350-81-560 through 600 provide guidelines for protecting wetlands, streams, ponds, lakes, riparian areas, sensitive wildlife areas and sites, and rare plants.

The Gorge Commission's natural resource inventory and National Wetland Inventory do not indicate any wetlands, streams, ponds, lakes, or riparian areas located on the subject property. The nearest waterbodies to the vineyard area include a stream approximately 280 feet to the south, a stream/wetland approximately 620 feet to the west, and a stream approximately 1,390 feet to the east.

2. Commission Rule 350-81-600(2) includes buffers for water resources. A minimum 200-foot buffer is required for perennial or fish bearing streams and a 50-foot buffer for intermittent (including ephemeral), non-fish bearing streams.

The proposed vineyard is located outside of the buffer of any of the nearby streams. The proposed use would not impact protected wetlands, streams, ponds, lakes, riparian areas, or buffers; therefore, it is consistent with Commission Rules 350-81-560 and 350-81-570.

3. Commission Rule 350-81-600(3) allows uses within 1,000 feet of a sensitive wildlife/plant area or site subject to review under Commission Rule 350-80-600(3).

The natural resource inventory indicates that the proposed vineyard is within 1,000 feet of the following sensitive wildlife/plant areas and sites:

- Mule and black-tailed deer winter range
- Lower Catherine and Major Creeks Natural Area
- Thompson's broad-leafed lupine (*Lupinus latifolius*)

- Few-flowered collinsia (*Collinsia sparsiflora*)
- Poet's shooting star (*Dodecatheon poeticum*)
- Alumroot (*Heuchera spp*)

In May, 2017, staff contacted Jasa Holt, with the Washington Natural Heritage Program, for comments related to the proposal. The Commission received a response from Jasa Holt, Natural Heritage Program, on May 16, 2017 indicating that there are occurrences for few-flowered collinsia on the subject parcel. However, if individual plants are growing within the proposed vineyard, the impact to these large populations as a whole would be very small.

In a follow up conversation in August, Ms. Holt provided additional information about the rare plant populations in the immediate area, primarily in the Lower Catherine and Major Creeks Natural Area, and reiterated that the proposed project was not likely to adversely affect those populations. The US Forest Service botanist, Robin Dobson reviewed the application materials and assisted the applicant in developing a mitigation plan to increase both native rare plant cover and deer winter forage shrubs on the property. A plant survey was not required, given the applicant's proactive approach to address potential impacts to rare plants and the loss of deer winter range habitat. With additional input from Commission staff, USFS, and professional plant restoration ecologists, the applicant's rehabilitation plan is included as a **condition of approval** in the Director's Decision. The applicant is currently residing out of the country and has requested additional time to develop a replanting site plan, indicating precise locations where new shrubs and native plants will be planted. A final replanting plan, including species, number of plants, precise locations, irrigation plan, and description of monitoring techniques shall be submitted to the Commission for review within 9 months of the Director's Decision. The approved plan shall be included as a **condition of approval**.

4. Commission Rule 350-81-600(3)(c) requires that the USFS, in consultation with state biologists review the site plan and field survey records. Commission Rule 350-81-600(3)(d) includes site plan review criteria to ensure that the proposed developments or uses do not compromise the integrity and function of or result in adverse effects to the wildlife or plant areas or sites.

Much of the area proposed for planting has been previously cultivated or plowed and grazed. The information provided by the Heritage program and the history of land use indicate that the project is not likely to have adverse impacts to existing rare plant populations. The applicant has proactively sought local and regional expertise related to native plants and the overall impact of the project is expected to benefit rare native plant species. As documented in the applicant's plant rehabilitation and habitat mitigation plan, the following rare plants, which have been documented within 1,000 feet of the project area, shall be established on the property: Thompson's broad-leafed lupine, few-flowered collinsia, poet's shooting star, and alumroot.

Following additional discussion with the USFS, **conditions of approval** include:

- The applicant shall establish native plants, including Thompson's broad-leafed lupine, few-flowered collinsia, poet's shooting star, and alumroot, as described in the attached plant rehabilitation plan. Native shrubs (described below in the findings for deer and elk winter range habitat) shall be planted along draws and identified movement corridors to enhance habitat for deer. Prior to planting these native species, the applicant shall submit for approval to the Executive Director a detailed replanting plan with each new plant identified clearly on a map and long-term maintenance described. This plan shall be submitted within 9 months of this Director's Decision.
- The applicant shall complete all plant rehabilitation actions within 2 years. The applicant shall ensure that the planted area maintain at least 75 percent live native plant cover.

Shrubs that do not survive shall be replaced; consultation with professional botanists may be required to identify more suitable species, locations, or conditions for survival.

- Vehicle travel and grazing within the planted area shall be minimized to the greatest extent practicable.
- For each of the 5 years following implementation of this replanting plan, the applicant shall prepare and submit to the Executive Director an annual report documenting survival rate and additional necessary actions taken. The reports shall be completed by a professional ecologist or botanist and include georeferenced photographs. Each report shall demonstrate how the conditions of approval above have been met and maintained.

Commission Rule 350-81-600(3)(d)(E) states:

“In areas of winter range, habitat components, such as forage, and thermal cover, important to the viability of the wildlife must be maintained or, if impacts are to occur, enhancement must mitigate the impacts so as to maintain overall values and function of winter range.”

Staff conducted a site visit with WDFW biologist Amber Johnson on May 18, 2017. The subject parcel is within mule and black-tailed deer range, and deer have been observed using the property. Ms. Johnson raised concerns regarding deer movement through the vineyard, particularly during harsh winter months. She noted that significant improvement could be made by removing the small Block 2 vineyard and widening the space left between the remaining plots, allowing wildlife to move more freely in and along the existing drainage. USFS and WDFW advocated seasonally opening north and south gates to allow deer access in the winter months, during the dormant period for grapes.

The applicant proposes to maintain all existing tree cover and not to disturb existing drainages which provide thermal and forage cover. The applicant researched deer movement on the property, identifying springs and treed areas through which deer have been observed moving, and committed to planting shrub species that would provide good winter forage. In August, the applicant provided a revised site plan and winter range mitigation plan, which is included as a condition of approval.

The revised plan removes Block 2 from the proposal. The final fence design maintains at least 145 feet between each vineyard block fence. The applicant’s final mitigation proposal demonstrates how the development avoids impacts to sensitive areas and provides mitigation measures to address the potential adverse effects to wildlife.

To prevent the vineyard from impeding deer movement and adversely affecting winter range, **conditions of approval** include:

- Gates shall be installed at the north and south end of each block and opened seasonally to allow deer access during winter and early spring months.
- The applicant shall plant shrubs and ensure survival or replacement of plantings for 5 years. The species and methods are described in the approved plant rehabilitation plan.

Commission Rule 350-81-580(6) and the Management Plan for the Columbia River Gorge National Scenic Area provide *Approval Criteria for Fences in Deer and Elk Winter Range* (Part I, Chapter 3: Natural Resources, GMA Wildlife Habitat; page I-3-24). This application does not require any new cattle or perimeter fencing, however the applicant has been advised that future fencing projects shall follow these guidelines and that maintenance of existing fences provides an opportunity to make these improvements:

- A. To make it easier for deer to jump over the fence, the top wire shall not be more than 42 inches high.
 - B. The distance between the top two wires is critical for adult deer because their hind legs often become entangled between these wires. A gap of at least 10 inches shall be maintained between the top two wires to make it easier for deer to free themselves if they become entangled.
 - C. The bottom wire shall be at least 16 inches above the ground to allow fawns to crawl under the fence. It shall consist of smooth wire because barbs often injure animals as they crawl under fences.
 - D. Stays, or braces placed between strands of wire, shall be positioned between fence posts where deer are most likely to cross. Stays create a more rigid fence, which allows deer a better chance to wiggle free if their hind legs become caught between the top two wires.
5. Commission Rule 350-81-600(4) includes guidelines for protecting soil productivity. Projects must control all soil movement within the area shown on the site plan. The soil area disturbed by new development or land uses, except for new cultivation, must not exceed 15 percent of the project area.

The vineyard area includes approximately 16 acres, more than 15 percent of the subject parcel; however, it consists of new cultivation. Installation of the grape vines and irrigation of the vines within this area will control soil movement and erosion. Additionally, the applicant is required to plant new native plants and shrubs to mitigate negative impacts to natural resources, which will contribute to soil stability.

Conclusion:

With the conditions of approval applied to ensure protection of natural resources, the proposed vineyard is consistent with the guidelines in Commission Rule 350-81-560 through 600 that protect natural resources in the National Scenic Area.

E. Recreation Resources

Commission Rule 350-81-086 states, "If new buildings or structures may detract from the use and enjoyment of established recreation sites on adjacent parcels, an appropriate buffer shall be established between the building/structure and the parcel."

No recreation site or facility exists on the subject parcel. The Catherine and Major Creeks Natural Area is the nearest recreational site. However, the off-site impacts associated with the vineyard are not expected to detract from the use and enjoyment of the Catherine and Major Creeks Natural Area or any established recreation sites.

Conclusion:

The proposed development is consistent with Commission Rule 350-81-086.

F. Tribal Treaty Rights

Commission Rule 350-81-084(1) provides protection of tribal treaty rights from new development in the National Scenic Area. Commission Rule 350-81-084(1)(a) lists additional notice materials for

projects in or providing access to the Columbia River or its fish bearing tributaries or for projects that may affect Indian treaty rights and provides 20 days for tribal governments to submit comments.

The subject property has no access to the Columbia River, but pursuant to other noticing requirements, notice of the proposal was mailed or emailed to each of the four tribal governments on May 1, 2017 and a cultural survey report was mailed or emailed to of the four tribal governments on May 21, 2017.

Commission Rule 350-81-084(1)(b) lists guidelines for tribal government consultation when those governments submit substantive written comments. The Confederated Tribes and Bands of the Yakima Nation submitted a comment letter during the initial public notice period, indicating that cultural resources survey was needed for this project. Staff followed up with a phone call to explain that Marge Dryden, Heritage Program Manager for the USFS National Scenic Area office, had also identified the need and that the applicant was funding a survey through a qualified contractor. No additional comments were submitted by any party during the cultural survey report comment period. Given this information, the proposed development is consistent with Commission Rule 350-81-084(1)(b).

Commission Rule 350-81-084(1)(c)(B) states:

The treaty rights protection process may conclude if the Executive Director determines that the proposed uses would not affect or modify treaty or other rights of any Indian tribe. Uses that would affect or modify such rights shall be prohibited.

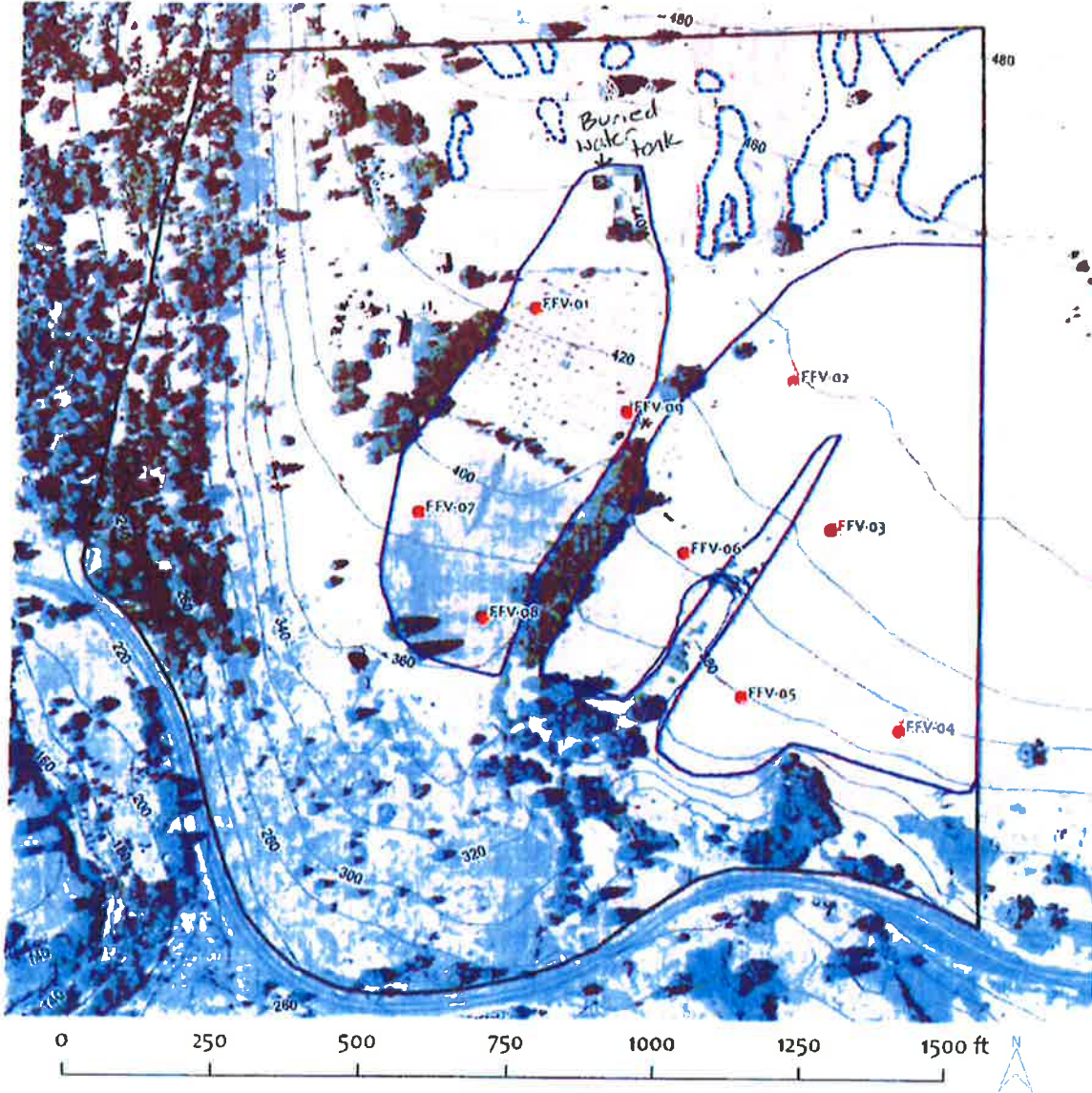
The subject property does not provide access to the Columbia River or its fish bearing tributaries. No known treaty rights are affected by this proposal and the cultural resources concern has been addressed. Because the proposed use would not affect or modify treaty or other rights of any Indian tribe, the treaty rights protection process may conclude pursuant to Commission Rule 350-81-084(1)(c)(B).

Conclusion:

The proposed development is consistent with the guidelines in Commission Rule 350-81-084, which provides protection for treaties and any other rights of any Indian tribe.

Fowler Family Vineyards

Potential vineyards



- Property boundary
- Potential vineyards
- Sample Pits
- 20 foot contours
- Loess Biscuits to be examined in future for soil depth

Scale 1:3,000

Map Projection: UTM Zone 10 NAD 1983

Map prepared by Richard Rupp, Palouse Geospatial

January 2017

Background image provided by Mapbox.

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APPROVED

Page 1 of 5
Just

**new fence alignment provides
≥140 ft between fields to allow
deer movement*

Figure 1

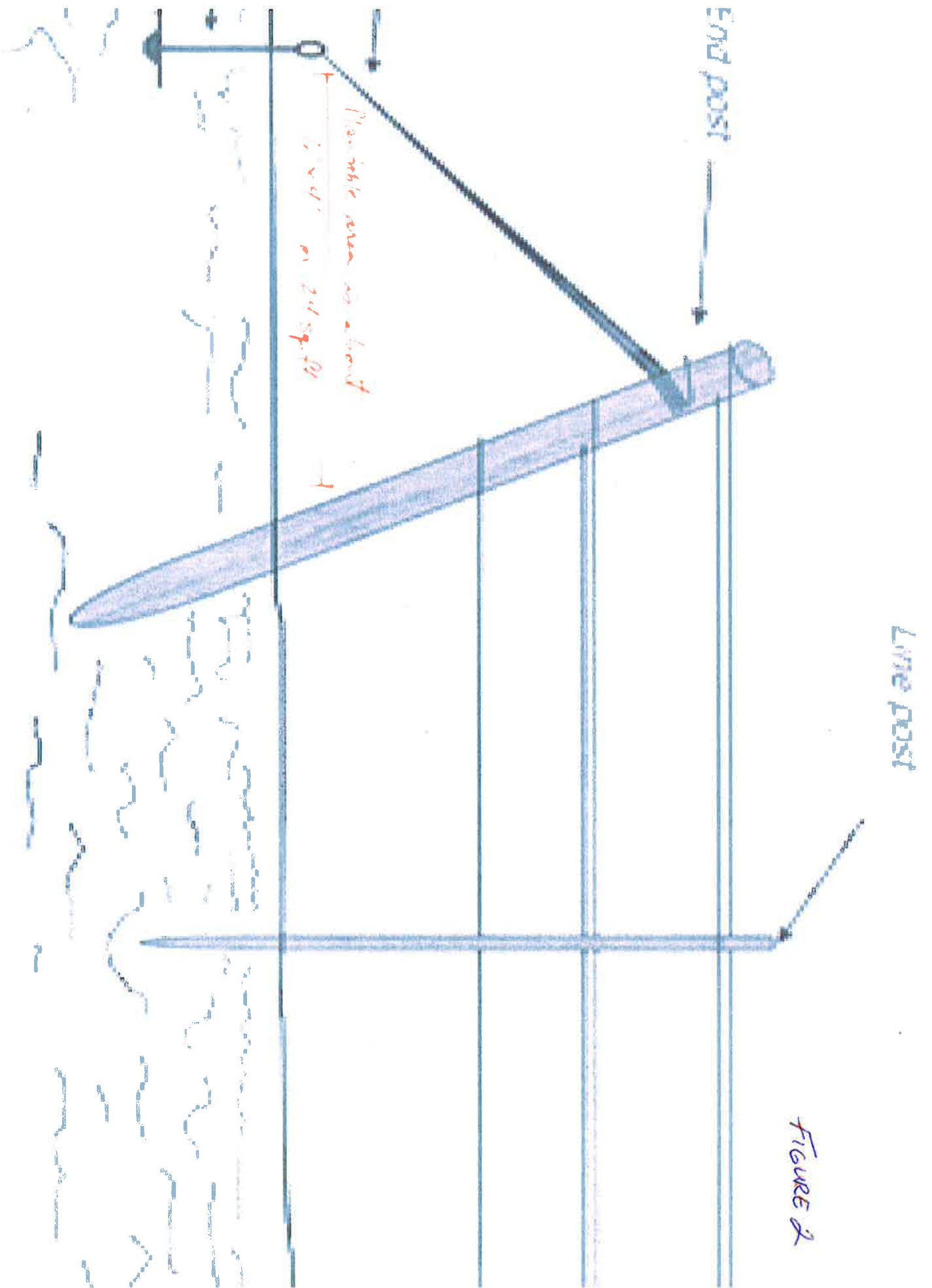
DRAFT

Rare Native Plant Management Plan

As previously documented with the Columbia Gorge Commission, it is our intent to convert a dead/dying fruit orchard and some of our pasture land into a wine grape vineyard. After discussions with Robin Dobson from the U.S. Forest Service and researching several field studies conducted by Dr. David James (WSU Prosser) at nearby vineyards, we intend to plant and maintain several varieties of rare native plants and forbs both inside and outside of the proposed vineyard. These native plants include Thompson's Lupine, Alumroot, Poet's Shooting Star, and Collinsia, all of which are located in close proximity to our land on neighboring properties. During the next four years in a phased manner, we intend to introduce these native shrubs along the exterior of the proposed vineyard, first along the two primary game trails associated with gullies lined by trees and then along the existing stone wall as highlighted in yellow in Figure 1. We also propose to plant these native shrubs on the interior of the vineyard at the end of each row where the trestle and support wire are anchored in the ground as highlighted in red in Figure 1. A closeup of the end of each vine row is at Figure 2. In this roughly 20-24 sq. ft. area between the trestle and the anchor we will also plant other beneficial native plants such as sagebrush, yarrow, Rabbit brush, Showy milkweed, and Yellow Sweet Clover to attract beneficial insects to our vineyard.

It is important to note that we intend this vineyard to be organically farmed and thus we will plant cover crops between these rows of vines to prevent soil erosion and to improve the soil. These cover crops will be planted in the Fall of 2017 and Spring of 2018 to get them established before the vines are planted in the late Spring of 2018. These cover crops will grow in harmony with the native shrubs and forbs located at the end of each row and will include drought tolerant native grasses, legumes, Tall buckwheat, and milkweeds to help add/fix Nitrogen in the soil. In my discussion with Robin, he noted that the sheep that we intend to use to manage the growth of the cover crop and to eat the weeds along the rows of vines (in lieu of tractors/lawnmowers/Round Up), will usually go for the more tasty grasses and vine shoots first and will tend to avoid the native shrubs until all the tasty grasses have been consumed. The key will be in moving the sheep from section to section of the vineyard so they do not feel compelled to eat the native shrubs and forbs at the end of the vineyard row. Our vision is that at the end of the four-year period we will have gone from zero native shrubs and forbs on our land to a healthy and visually appealing panoply of native plants growing inside and outside of our vineyard and along the winter game trails and stone wall. Robin has also agreed to take us to some neighboring vineyards during our next visit to Washington that have already introduced native plants and shrubs to their vineyards, in order to learn best

practices in terms of attracting beneficial insects to help protect our grapes and vine canopies. We also plan to talk with a local botanist Kristen Thie to ensure we precisely plant these shrubs and native seeds in areas where they can thrive and hopefully proliferate. We are excited about this part of our vineyard development plan.



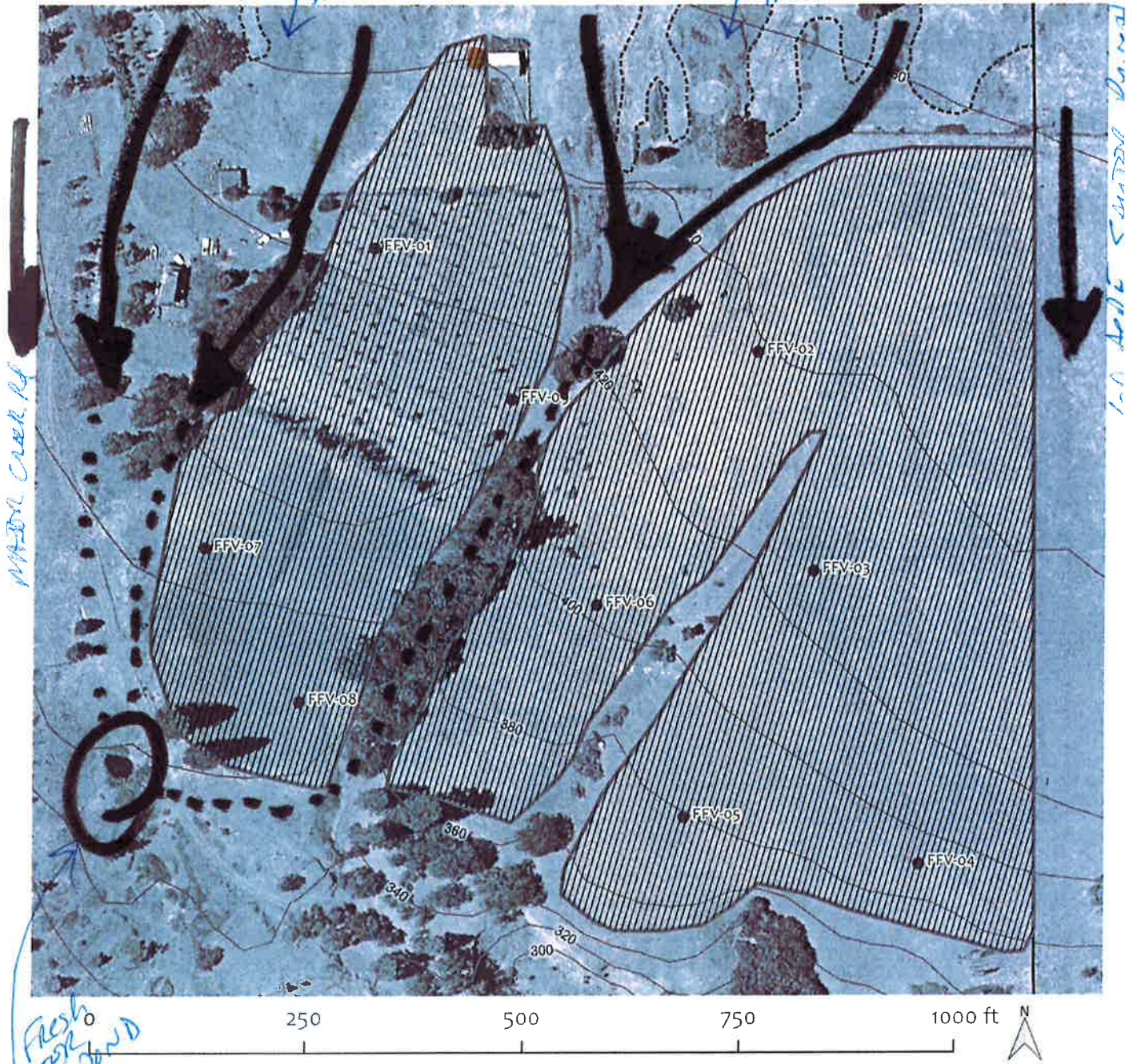
Fowler Family Vineyards

Post Vineyard
GAME TRAILS

Planned vineyard with 7 foot row spacing & 16° orientation

Primary TRAIL

Secondary TRAIL



- Property boundary
- Planned vineyards with 7 foot row spacing
- Sample Pits
- 20 foot contours
- Loess Biscuits to be examined in future for soil depth
- Buried water tank

Scale 1:2,000
 Map Projection: UTM Zone 10 NAD 1983
 Map prepared by Richard Rupp, Palouse Geospatial
 August 2017

Background image provided by Mapbox.
 This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

* Final fencing provide ≥ 140 feet between fenced fields

FIGURE 3