

## DIRECTOR'S DECISION

**APPLICANT:** Richard Harville

**LANDOWNER:** Karen Harville

**FILE NO.:** C17-0009

**REQUEST:** To replace an existing garage, accessory to a single-family dwelling. The proposed replacement garage will be 900 square feet and 24 feet high, in the same location and the same size as the existing 576 square foot building.

**LOCATION:** The subject parcel is located at 12 Crosby Lane, Lyle, WA in Sections 28 and 33, Township 3 North, Range 12 East (Klickitat County Parcel Numbers 03122800002200 and 03123300000100).

**LAND USE DESIGNATION:** The subject parcel is located in the General Management Area and designated Small-Scale Agriculture. The total size of the subject parcel is 15.23 acres, made up of taxlot 03122800002200 (7.73 acres) and taxlot 03123300000100 (7.50 acres).

### ***DECISION:***

Based upon the following findings of fact, the land use application by Richard Harville to replace an existing building accessory to the existing single family dwelling is consistent with the standards of Section 6 and the purposes of the Columbia River Gorge National Scenic Area Act, P.L. 99-663, the Management Plan for the Columbia River Gorge National Scenic Area, and Commission Rule 350-81, and is hereby **approved**.

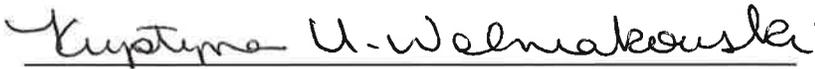
### ***CONDITIONS OF APPROVAL:***

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, the Management Plan and Commission Rule 350-81:

1. **To ensure notice of the conditions to successors in interest, this Director's Decision, Staff Report for C17-0009, and approved site plan shall be recorded in county deeds and records at the Klickitat County Assessor's Office. Once recorded, the applicants shall submit a copy of the recorded document to the Executive Director at the Commission.**
2. The development shall be constructed as shown on the approved project description, site plan and elevation drawings. Any changes shall be reviewed and approved by the Executive Director before the changes are implemented.
3. No Oregon white oak trees shall be removed as part of this project; any limbing or tree-trimming that is required to accommodate construction shall be the minimum necessary and not compromise the survival of the tree.

4. Grading and ground-disturbance shall be limited to the extent necessary to accomplish construction.
5. 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.
6. 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. The State Physical Anthropologist Dr. Guy Tasa shall be contacted immediately at (360) 586-3534 or [guy.tasa@dahp.wa.gov](mailto:guy.tasa@dahp.wa.gov). Further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.
7. 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 completion of all work on exteriors of structures (including painting).

DATED AND SIGNED THIS 12 day of September 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 12 day of September, 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.

Construction must be completed within two years of the date that the applicant commenced construction. The date of the Executive Director's preconstruction inspection to confirm the location of proposed structural development as required by this decision shall be considered the date the applicant commenced construction, unless the applicant demonstrates otherwise.

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 12 day of October, 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.

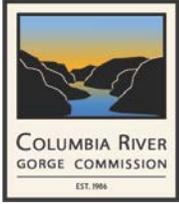
This decision does not address local, state, or federal requirements that may be applicable to the proposed development. The landowner is responsible for obtaining all applicable county, state, or federal permits required for the development.

**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  
Klickitat County Planning Department  
Klickitat County Building Department  
Klickitat County Health Department  
Klickitat County Auditor  
Klickitat County Public Works  
Washington Department of Fish and Wildlife  
Washington Natural Heritage Program  
Friends of the Columbia Gorge

**Attachments:**

Staff Report C17-0009  
Approved Site Plan



## FACTS AND FINDINGS COLUMBIA RIVER GORGE COMMISSION STAFF REPORT

**APPLICANT:** Richard Harville

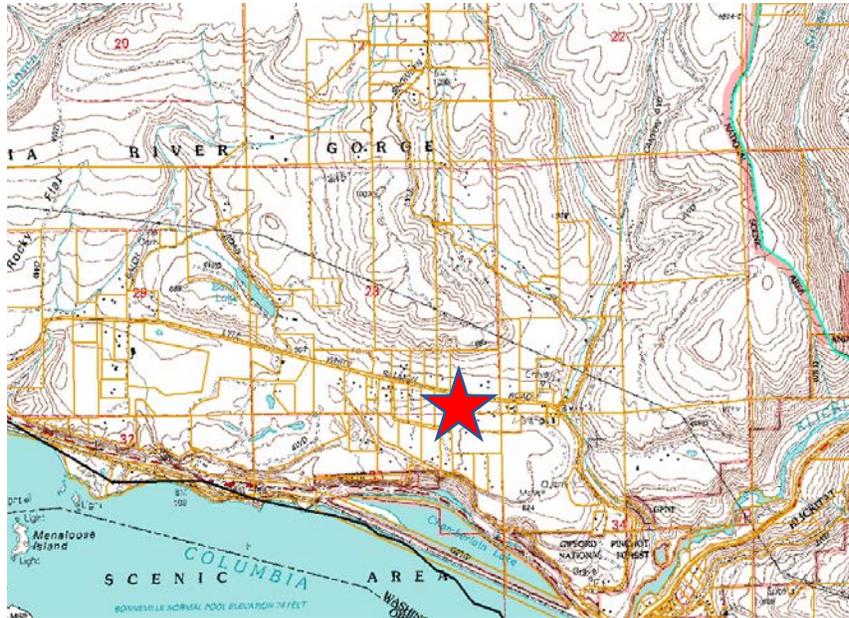
**LANDOWNER:** Karen Lee Harville

**FILE NO.:** C17-0009

**REQUEST:** To replace an existing garage, accessory to a single-family dwelling. The proposed replacement garage will be 900 square feet and 24 feet high, in the same location as the existing 576 square foot building.

**LOCATION:** The subject parcel is located at 12 Crosby Lane, Lyle, WA in Sections 28 and 33, Township 3 North, Range 12 East (Klickitat County Parcel Numbers 03122800002200 and 03123300000100).

**LAND USE DESIGNATION:** The subject parcel is located in the General Management Area and designated Small-Scale Agriculture. The total size of the subject parcel is 15.23 acres, made up of taxlot 03122800002200 (7.73 acres) and taxlot 03123300000100 (7.50 acres).



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

Notice of the subject request was mailed to property owners within 500 feet of the subject parcel and the following individuals/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  
Klickitat County Planning Department  
Klickitat County Building Department  
Klickitat County Health Department  
Klickitat County Assessor  
Skamania County Planning Department  
U.S. Forest Service National Scenic Area Office  
Washington Department of Fish and Wildlife  
Washington Natural Heritage Program  
Washington State Historic Preservation Office  
Friends of the Columbia Gorge  
White Salmon Library

Comments were received from the following parties:

Jasa Holt, Washington Natural Heritage Program  
Marge Dryden, US Forest Service National Scenic Area  
Steve McCoy, Friends of the Columbia River Gorge  
Gretchen Kaeler, Department of Archaeology and Historic Preservation

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

**BACKGROUND:**

The applicant submitted initial application materials to the Gorge Commission in March 2017. USFS and Commission staff conducted site visits on the subject parcel in July.

**FINDINGS OF FACT:**

**A. LAND USE**

1. The subject property is in the General Management Area (GMA) and is designated Small-Scale Agriculture with a 40-acre minimum parcel size for new land divisions.
2. The subject taxlots make up one legal parcel of approximately 15.23 acres in size. The applicant provided a deed history to demonstrate that both lots were conveyed together in 1972 and subsequently to Karen Harville in 2003.
3. The parcel is relatively flat and includes an existing dwelling and associated improvements with access from Old Highway 8. Directly south of the existing home and garage, generally along the property line, is a significant contour that forms an earthen berm.
4. The proposed development is to replace an existing 576 square foot garage with a new building in the same footprint 900 square feet in size with a maximum height of 24 feet.
5. Commission Rule 350-81-082(1)(a) states "Except as otherwise provided, any existing use or structure may continue as long as it is used in the same manner and for the same purpose."

350-81-082(2) states

*“Replacement of Existing Structures Not Damaged or Destroyed by Disaster*

*(a) Except as provided in 350-81-082(3), an existing structure may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within one year of the date the use of the original structure was discontinued. The replacement structure shall comply with the following standards:*

*(A) The replacement structure shall be used in the same manner and for the same purpose as the original structure.*

*(B) The replacement structure may have a different size and/or location than the original structure. An existing mobile home may be replaced with a framed residence and an existing framed residence may be replaced with a mobile home.*

*(C) The replacement structure shall be subject to the scenic, cultural, recreation and natural resources guidelines; the treaty rights guidelines; and the land use designations guidelines involving agricultural buffer zones, approval criteria for fire protection, and approval criteria for siting of dwellings on forest land.*

*(D) The original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the one year time frame.”*

The applicant submitted a complete application prior to deconstructing the existing garage building. It is currently used for storage. The intended future use is to store two vehicles and personal property in a lofted area above. The design mimics that of the dwelling, with a similar attic space and steep pitched roof.

Commission Rule 350-81-076 describes required agricultural setbacks for new development in Small-scale Agriculture adjacent to suitable agricultural lands. The applicable setbacks are described as follows:

SETBACK GUIDELINES  
Type of Buffer (Size in Feet)

Type of Agriculture	Open or Fenced	Natural or Vegetation Barrier	Created 8-foot Berm or Terrain Barrier
Orchards	250	100	75
Row crops/vegetables	300	100	75
Livestock grazing pasture, haying	100	15	20

The existing garage building is approximately 125 feet from plowed fields and 300 feet from orchards on the property to the south. A dense row of Oregon white oak and a topographic rise screens the existing development from the adjacent property.

The subject parcel is not located within a forest land use designation and is not subject to fire protection standards.

**Conclusion:** The proposed development meets the requirements for replacement of an existing structure and applicable guidelines for agricultural buffer zones.

6. Commission Rule 350-81-190(1) lists uses that may be allowed on lands designated Small-Scale Agriculture in the GMA, subject to compliance with scenic, cultural, natural, and recreation resources guidelines of the Commission Rule 350-81, Sections 520 through 620.

*“(f) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:*

*(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.*

*(B) The footprint of any individual accessory building shall not exceed 1,500 square feet.*

*(C) The height of any individual accessory building shall not exceed 24 feet.”*

The subject parcel has existing agricultural buildings and structures, including a horse barn (1800 square feet), hay barn (950 square feet), fruit house (100 square feet), and two livestock “loafing” sheds (less than 100 square feet each). According to the applicant and county property valuation records, the parcel contains the following additional accessory buildings; the garage (576 square feet), two storage sheds (322 and 120 square feet), a well house (25 square feet), a pump house (25 square feet), and a chicken coop (100 square feet).

The applicant proposes to remove the chicken coop. The proposed garage would be 900 square feet and 24 feet high. The proposed garage would replace the existing garage and therefore the total accessory square footage would be 1392 square feet.

**Conclusion:** Subject to compliance with scenic, cultural, natural, and recreation resources guidelines of the Commission Rule 350-81, Sections 520 through 620, the proposed garage is an allowed use and meets the size and height criteria in Commission Rule 350-81-190(1)(f).

## **B. SCENIC RESOURCES**

1. Commission Rule 350-81-520 lists scenic resource protection guidelines for review uses in the GMA. Commission Rule 350-81-520(1) lists guidelines for all review uses in the GMA, with the following that apply to the proposed garage.

*(a) 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 majority of the subject parcel, and location where the garage is proposed, is flat and within the footprint of the existing dwelling improvements. The applicant indicated that the garage site will require minimal grading to level the ground within the existing garage footprint. Utilizing the existing garage footprint minimizes necessary grading and vegetation removal.

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

The surrounding area contains single-family dwellings and accessory buildings that are associated with both residential and agricultural uses. The applicant proposes a replacement garage that would be 900 square feet in area and 24 feet in height. Staff reviewed county records for 20 properties within .25 miles of the subject parcel, in Residential and Agriculture Land Use Designations. Of these, two were undeveloped lots, and one a commercial winery. Twelve properties had detached garages or other accessories to an existing home (non-agriculture). These buildings range in size from 120 square feet to 1238 square feet. Four nearby residences have accessory buildings larger than the 900 square foot garage proposed on the Harville property.

2. Commission Rule 350-81-520(2) lists guidelines for all review uses that are topographically visible from key viewing areas.

*(a) The guidelines in this section shall apply to proposed developments on sites topographically visible from key viewing areas.*

The Commission's Seen Areas model indicates the site is potentially visible from Rowena Crest, the Columbia River, Historic Columbia River Highway, State Route 14, and Interstate 84. The property is located along Old Highway 8, at approximately 600 feet elevation, and set back approximately two tenths of a mile from the edge of a broad bench feature. The topography slopes downward to the north of this edge and drops again at the south edge of the property so that the Harville parcel is screened from all KVAs. A site visit confirms this. Thus, the guidelines of Commission Rule 350-81-520(2) are not applicable.

3. The subject parcel is located in Rural Residential in Pastoral Landscape Setting. Commission Rule 350-81-520(3) contains guidelines for all review uses within each landscape setting.

*(a) Pastoral*

*(A) Accessory structures, outbuildings, and access ways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures, and farm fields.*

The proposed garage would be located near the existing dwelling, accessory structures and buildings, and onsite infrastructure, and within the footprint of the existing garage. Along with the existing improvements, the proposed garage would be clustered on the southern portion of the parcel.

*(e) Rural Residential*

*(A) Existing tree cover shall be retained as much as possible, except as is necessary for site development, safety purposes, or as part of forest management practices.*

Mature oaks surround the existing garage on three sides. The applicant has indicated that all trees will be retained, however in order to accommodate the increased height, some limbs may need to be removed. **A condition of approval is that no Oregon white oak trees shall be removed as part of this project; any limbing or tree-trimming that is required to accommodate construction shall be the minimum necessary and not compromise the survival of the tree.**

*(f) Rural Residential/Pastoral, Rural Residential/Coniferous Woodland, and Rural Residential/Oak-Pine Woodland*

*(A) New development in this setting shall meet the design guidelines described for both the Rural Residential setting and the more rural setting with which it is combined (either Pastoral, Coniferous Woodland or Oak-Pine Woodland), unless it can be demonstrated that compliance with the guidelines for the more rural setting is impracticable. Expansion of existing development shall comply with this guideline to the maximum extent practicable.*

*(B) In the event of a possible conflict between the two sets of guidelines, the guidelines for the more rural setting (Coniferous Woodland, Oak-Pine Woodland or Pastoral) shall apply, unless it can be demonstrated that application of such guidelines would not be practicable.*

**Conclusion:** The development, with conditions to maintain existing tree screening, meets the standards for Rural Residential in Pastoral Landscape Setting.

4. Commission Rule 350-81-520(4) contains-guidelines for all review uses within ¼ mile of Scenic Travel Corridors.

The proposed garage site is not within ¼ mile of a Scenic Travel Corridor and therefore Commission Rule 350-81-520(4) does not apply.

**Conclusion:** The proposed development is not topographic visibility from KVAs. With conditions, the proposed development will meet the applicable landscape setting standards. The proposed development will not cause adverse scenic impacts, and will not cause adverse cumulative scenic impacts. The proposed development 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 that a reconnaissance survey be conducted for proposed development.

On May 10th, 2017, Marge Dryden, Heritage Program Manager, U.S. Forest Service, Columbia River Gorge National Scenic Area Office, conducted a cultural resource review for the proposal. Ms. Dryden determined through her review that the proposed development required a historical survey. The property received a cursory survey in 2005, when it was noted to have historic buildings with potential to be significant. Information was available on the existing home and the Ms. Dryden determined a reconnaissance survey would not be required, because the proposal is to modify an existing replace or modify an existing building in an area that has been previously disturbed, and is considered to have a low probability for archaeological resources.

2. 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 determined through her review that the proposed development would alter the exterior of a building greater than 50 years old that might also contribute to the historic or architectural character of the property's historic dwelling. Ms. Dryden submitted a cultural survey determination and survey report to staff and to DAHP. On August 14<sup>th</sup>, DAHP provided concurrence with the findings described in those materials. The proposed replacement of the garage building and removal of the chicken coop will not adversely affect the historical resources on the property. Any future modifications to the historic home will require additional review. In late August, Ms. Dryden further clarified that her recommendation was to maintain consistency with the existing buildings on the property to the extent possible. The applicant's original proposal was to paint the garage white with dark green trim, to match the existing house. The building is not topographically visible from any Kew Viewing Areas (see findings above); the applicant is encouraged to maintain the color scheme of the existing historic buildings for the replacement garage.

3. 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.

No specific comments regarding cultural resources on the subject parcel, other than those described above from DAHP, were submitted and no consultation was requested.

4. Commission Rule 350-81-540(2)(b)(A) requires that a cultural resources reconnaissance survey be submitted to the State Historic Preservation Office and Indian tribal governments. The State Historic Preservation Office and tribes have 30 days in which to comment on the survey.

As previously mentioned, Ms. Dryden determined through her review that the proposed development does not require a reconnaissance survey. However, staff provided the cultural survey report and survey determination letter to the four treaty tribes and DAHP on August 7<sup>th</sup>, 2017.

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 350-81-540. **A condition of approval will include 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](mailto:guy.tasa@dahp.wa.gov).**

#### **D. NATURAL RESOURCES**

Commission Rules 350-81-560 through 590 contain provisions for the protection of natural resources. Commission Rule 350-81 protects wetlands (350-81-560); streams, ponds, lakes and riparian areas (350-81-570); sensitive wildlife areas and sites (350-81-580); and rare plants (350-81-590).

1. Wetlands, streams, ponds, lakes, and riparian areas: Commission resource inventories do not indicate wetlands, streams, ponds, lakes, or riparian areas within 1,000 feet the proposed garage. The National Wetland Inventory shows an intermittent stream approximately 600 feet to the west of the proposed garage. The garage is located outside of the required buffer of this stream.
2. Sensitive wildlife resources: The northern taxlot, 03122800002200, is partially within deer and elk winter range. However, the garage is not located in this mapped winter range. Oregon white oak occurs on the south portion of the property. No tree removal is proposed as part of this project. The Washington Department of Fish and Wildlife did not comment on the notice of development review.
3. Sensitive Plants: Commission Rule 350-81-590 contains provisions for the protection of sensitive plants within 1,000 feet of the proposed development.

Commission resource inventories indicate Thompson's broad-leaved lupine is within 1,000 feet of the proposed garage. Jasa Holt, with The Washington Department of Natural Resources Natural Heritage Program, responded noting that this species is no longer tracked in their database. There is limited potential for this development to negatively impact rare plants, because development is proposed within an existing building footprint. **A condition of approval requires the applicant to minimize disturbance to soils and existing vegetation to the area necessary to accomplish construction.**

**Conclusion:** The proposed development, with conditions, is consistent with the applicable guidelines in Commission Rule 350-81-560 through 350-81-590 that protect natural resources from adverse effects.

#### **E. RECREATION RESOURCES**

The subject parcel is not adjacent to any parks or recreation sites.

**Conclusion:** The proposed development is consistent with applicable recreation resource guidelines and Commission Rule 350-81-610 does not apply.

## **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 previously described noticing requirements, notice of the proposal was mailed or emailed to the four tribal governments on June 15, 2017.

Commission Rule 350-81-084(1)(b) lists guidelines for tribal government consultation when those governments submit substantive written comments. No substantive comments were received. 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 no substantive treaty rights concerns were raised by the tribal governments. 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.

**DATE THIS REPORT WAS PREPARED:** September 10, 2017

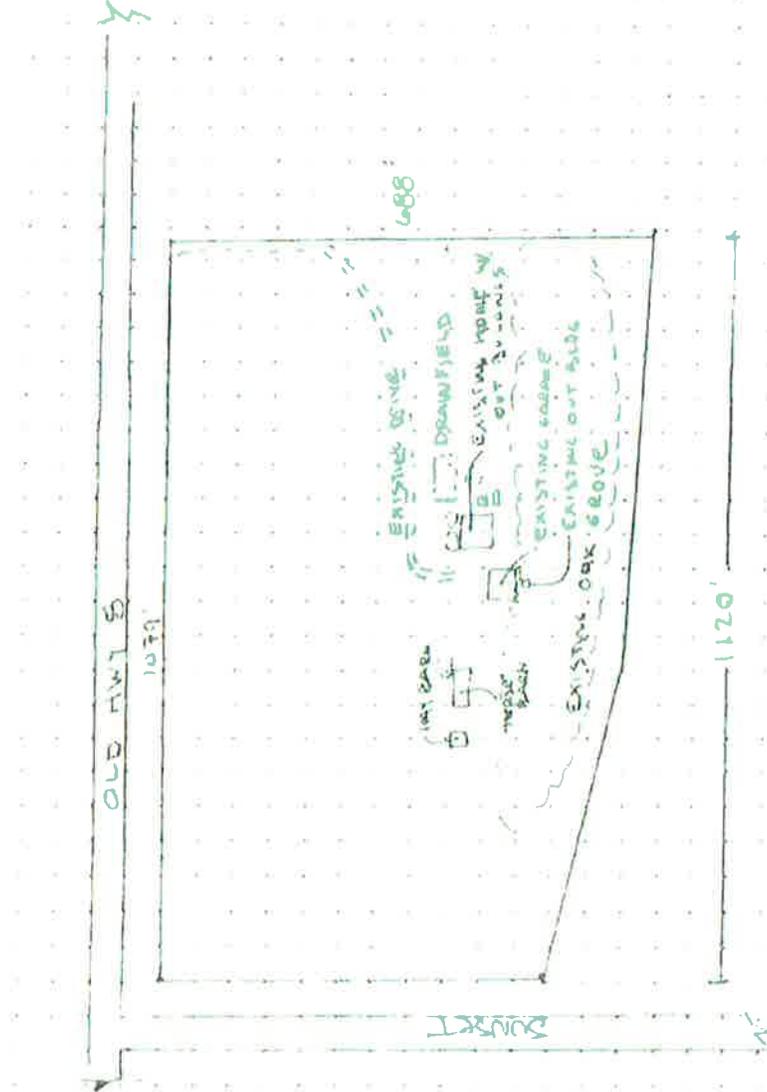
**PREPARED BY:** *Columbia River Gorge Commission*

cc: 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  
Klickitat County Planning Department  
Klickitat County Building Department  
Klickitat County Health Department  
Klickitat County Assessor  
Skamania County Planning Department  
U.S. Forest Service National Scenic Area Office  
Washington Department of Fish and Wildlife  
Washington Natural Heritage Program  
Washington State Historic Preservation Office  
Friends of the Columbia Gorge  
White Salmon Library

END OF STAFF REPORT

Karen Lee Harville  
1918 Woodland Rd  
Thomaston, GA 30286

12 Crosby Lane; Lyle WA 98635  
Klickitat County, WA  
03-12-3300-0001/00  
03-12-2800-0022/00  
TL 3 B2NB;33-3-12  
TL 8 SRSB;TL 6B S2;28-3-12  
General Rural



Each grid equals 60' x 60' at a scale of 1" = 200'

**APPROVED**

*Jessica*