

COLUMBIA RIVER GORGE COMMISSION DIRECTOR'S DECISION

CASE FILE: C19-0006

PROPOSAL: The Columbia River Gorge Commission has received an application for a geological investigation for a future Courtney Road project.

APPLICANT: Klickitat County

LANDOWNERS: Lee Storm (Tax lot 03-11-28-0000-04/00), Dennis Ross (Tax lot 03-11-28-0000-10/00), Ben Strackany (Tax lot 03-11-28-0000-12/00) & Klickitat County (existing Courtney Rd. right-of-way).

LOCATION: The subject parcels are located on Burdoin Mountain, adjacent to Courtney Road, in the Northern ½ of Section 28, Township 3 North, Range 11 East, W.M., Klickitat County.

LAND USE DESIGNATION: The subject parcels are managed as General Management Area and designated Small-Scale Agriculture.

Note: According to Section 8(o) of the Scenic Area Act, the Forest Service designated some of the subject parcels General Management Area (GMA) Small-Scale Agriculture. For the purposes of this development review, the Special Management Area (SMA) guidelines no longer apply. The proposed development will be reviewed according to the applicable GMA land use and resource protection guidelines

DECISION:

Based upon the following findings of fact, the land use application by Klickitat County, for a geological investigation for a future Courtney Road project 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 P.L. 99-663, and the Management Plan and approvable under Commission Rule 350-81. Compliance with them is required. **This decision must be recorded in county deeds and records to ensure notice of the conditions to all successors in interest** (Management Plan, Review Uses Guideline 1, pg. II-96).

1. To ensure notice of the conditions to successors in interest, this Director's Decision, Staff Report for C19-0006, and approved site plan shall be recorded in county deeds and records at the Klickitat County Auditor's Office. Once recorded, the applicants shall submit a copy of the recorded document to the Executive Director.

2. This decision does not exempt the proposal from other non-Scenic Area rules and regulations. It is the applicant's responsibility to ensure the use complies with all other applicable federal, state, and county laws and to obtain necessary approvals, including utility easement approvals.
3. Any new land uses or structural development such as residences, garages, workshops, or other accessory structures, additions or alterations, or grading not included in the approved application or site plan will require a new application and review.
4. This Director's Decision and the findings and conclusions in the Staff Report apply only to the geotechnical investigation proposed with this application. Approval of this application does not constitute or infer approval of any Courtney Road improvement project.
5. 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.
6. An archeologist shall be on site during development activities near the cultural sites identified in the Cultural Resources Report in the application. An archeologist shall also brief Klickitat County work crews and engineers on avoiding unplanned impacts to cultural resources.
7. To the extent practicable, all existing tree cover and vegetation shall be retained and protected from damage, with the number of bushes removed or limbed being the minimum necessary to complete the project. No trees shall be removed, unless otherwise deemed necessary for safety purposes.
8. Upon completing construction, all holes shall be refilled and disturbed areas shall be immediately restored to their pre-existing condition and stabilized to prevent erosion.
9. If cultural resources are discovered during construction activities, all activities within 100 feet of the cultural resources shall immediately cease and the applicants shall notify the Gorge Commission within 24 hours of discovery and the State Physical Anthropologist, Dr. Guy Tasa at (360) 586-3534 or guy.tasa@dahp.wa.gov. The cultural resources shall remain as found and further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.
10. If human remains are discovered during construction activities, all activities shall cease immediately upon their discovery. Local law enforcement, the Executive Director and Indian Tribal governments shall be contacted immediately. Further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.
11. 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 means all boreholes have been backfilled and the sites have been rehabilitated.

DATED AND SIGNED THIS 1 day of July 2019 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 1 day of July 2021 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 31 day of July 2019.

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.

cc:

Confederated Tribes and Bands of the Yakama Nation

Kristen Tiede, Confederated Tribes of the Umatilla Indian Reservation

Christian Nauer, 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
Washington Natural Heritage Program
Amber Johnson, Washington Department of Fish and Wildlife
Steve McCoy, Friends of the Columbia River Gorge
Fred Heany

Attachments:

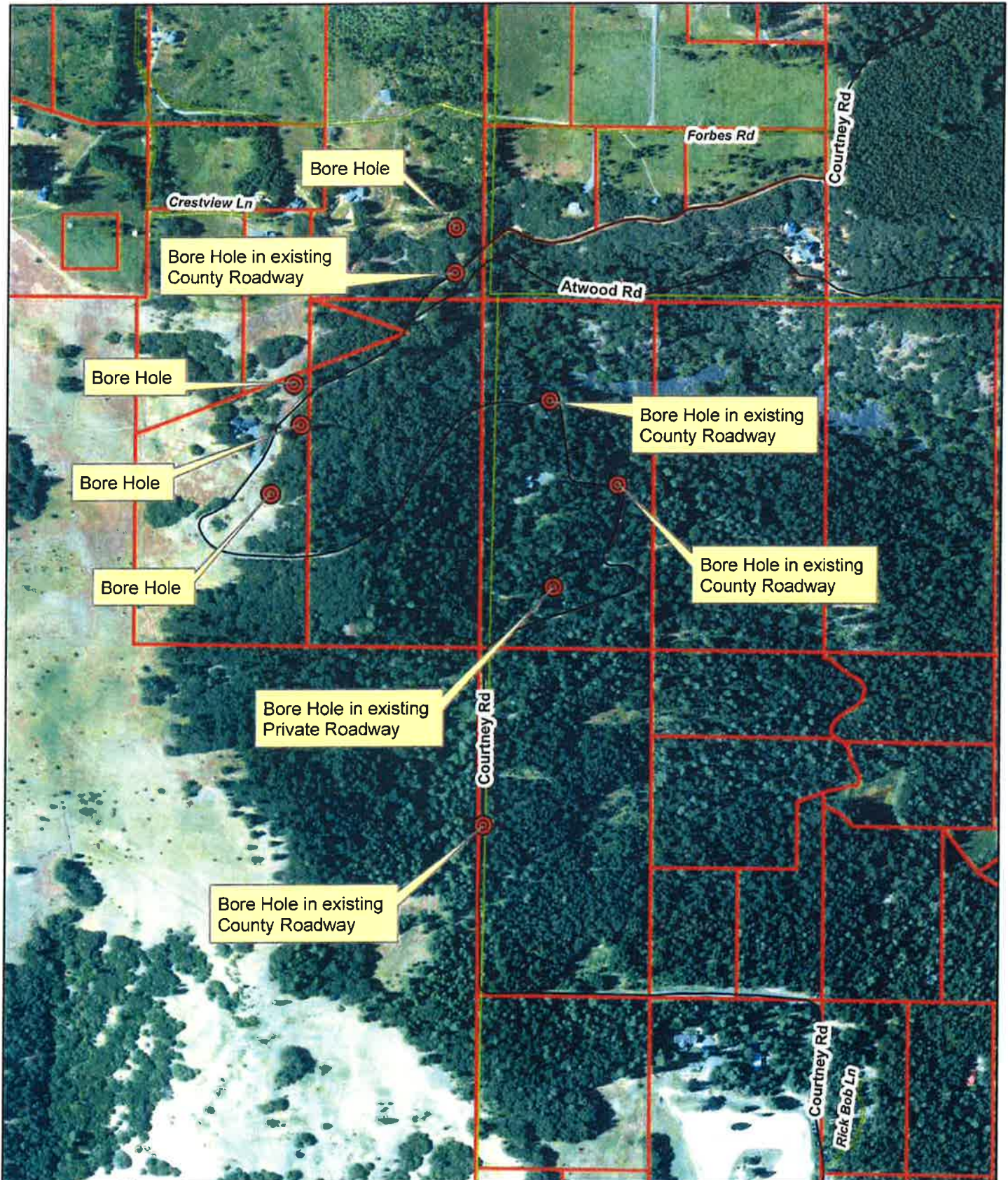
Staff Report for C19-0006
Approved site plan

APPROVED
K. W. Sullivan

Proposed Drilling Vicinity Map - Courtney Road Overview

500

Feet

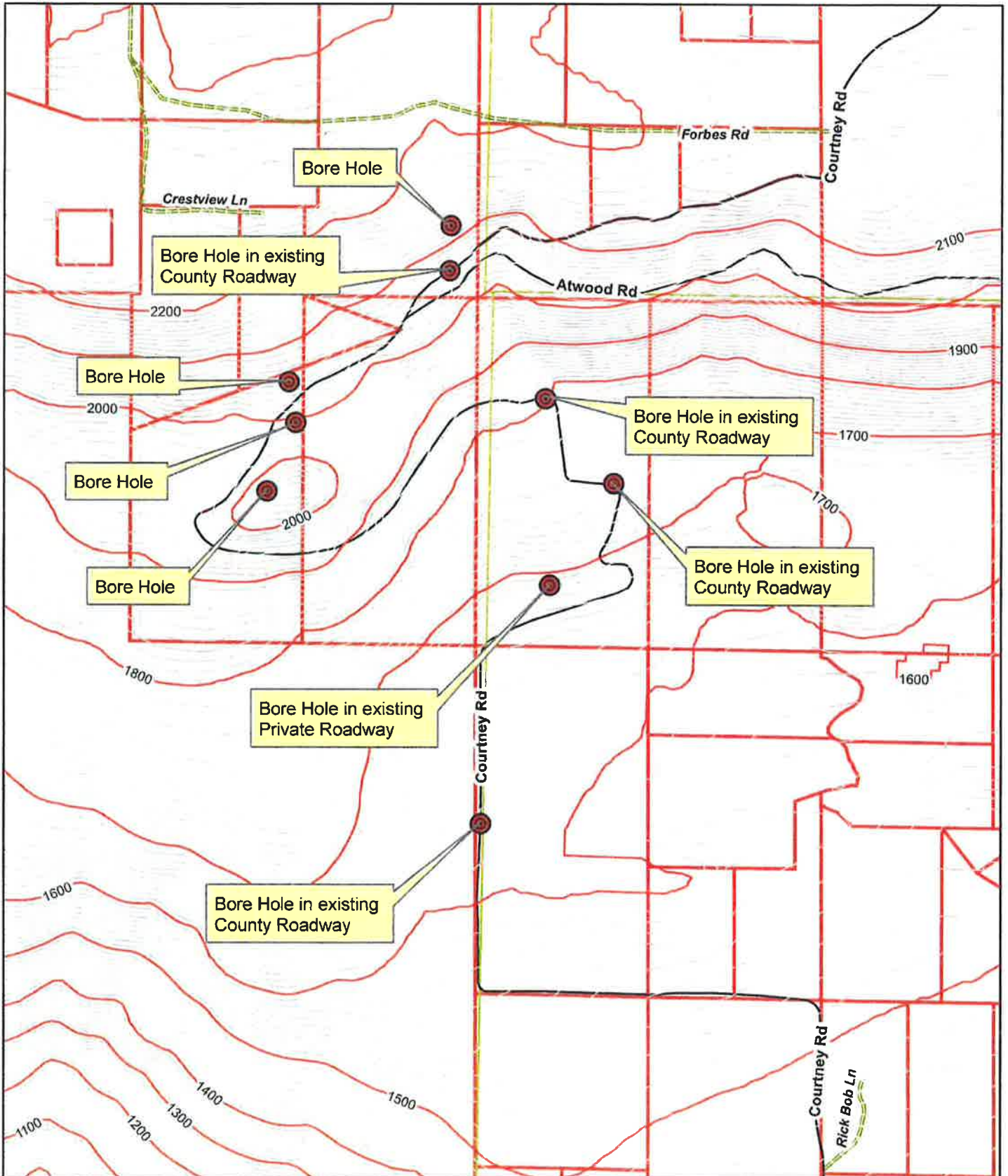




Proposed Drilling Vicinity Map - Courtney Road Overview

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Feet

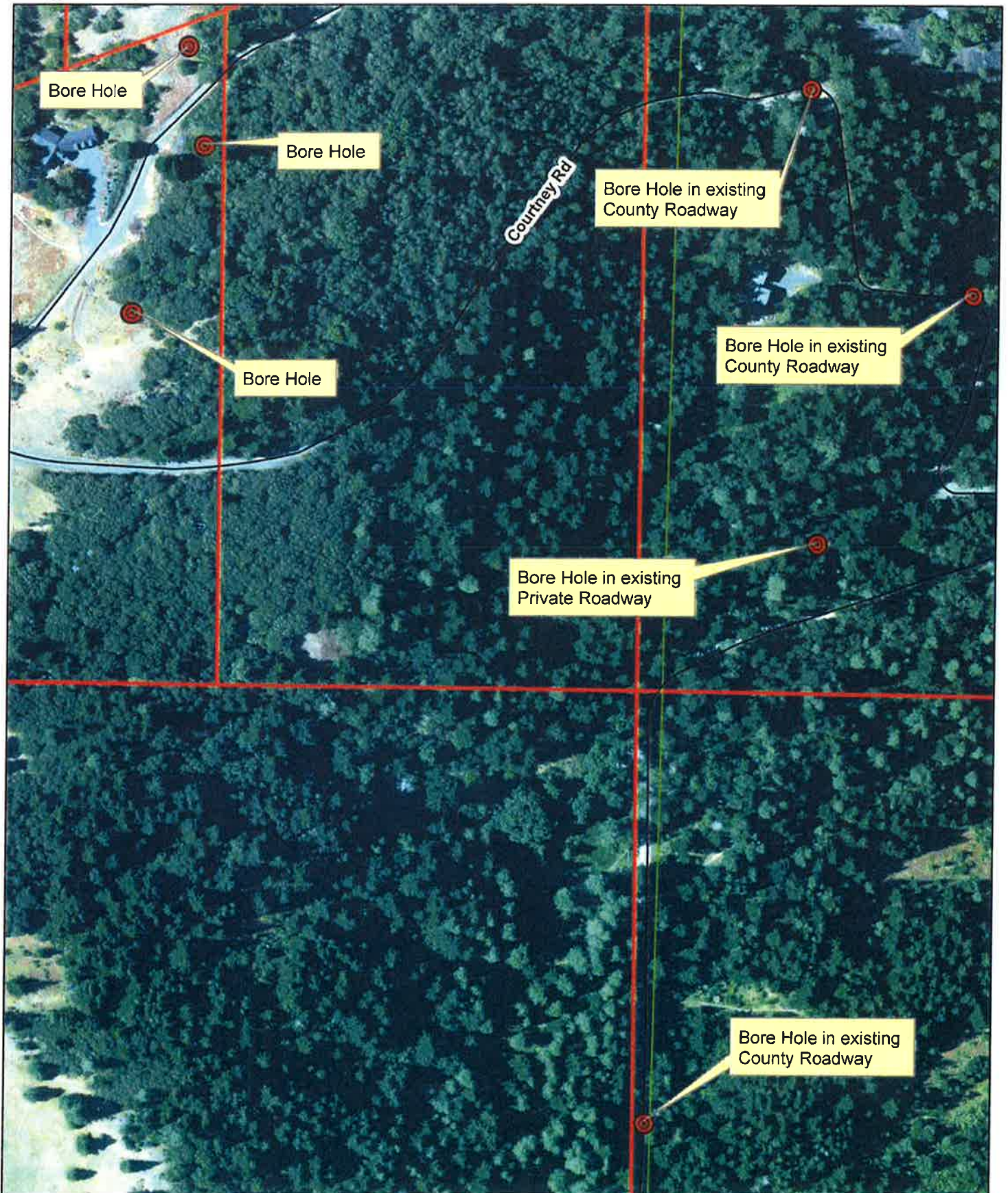


Proposed Drilling Vicinity Map - Courtney Road Page 1 of 2



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Feet

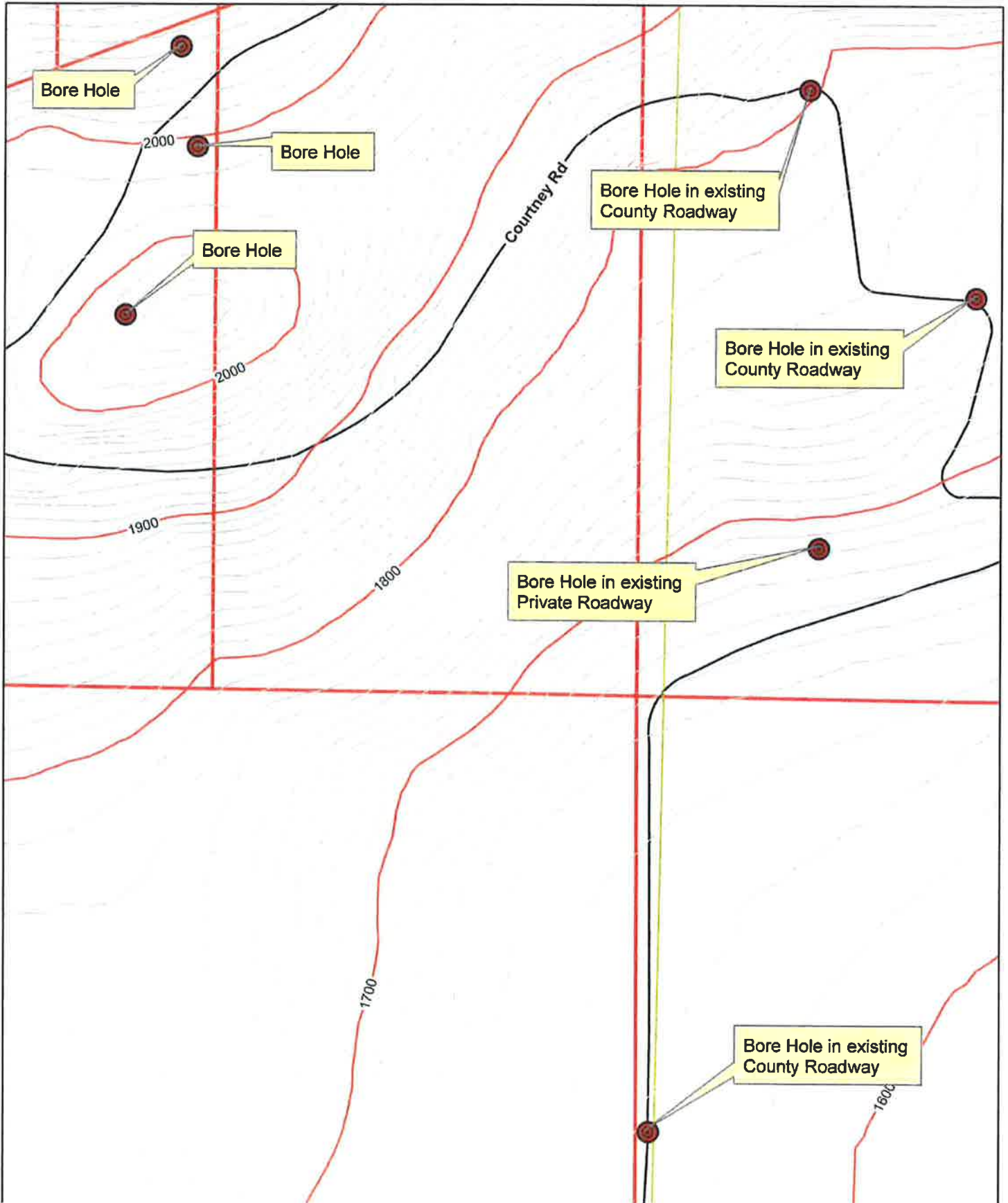


Proposed Drilling Vicinity Map - Courtney Road Page 1 of 2



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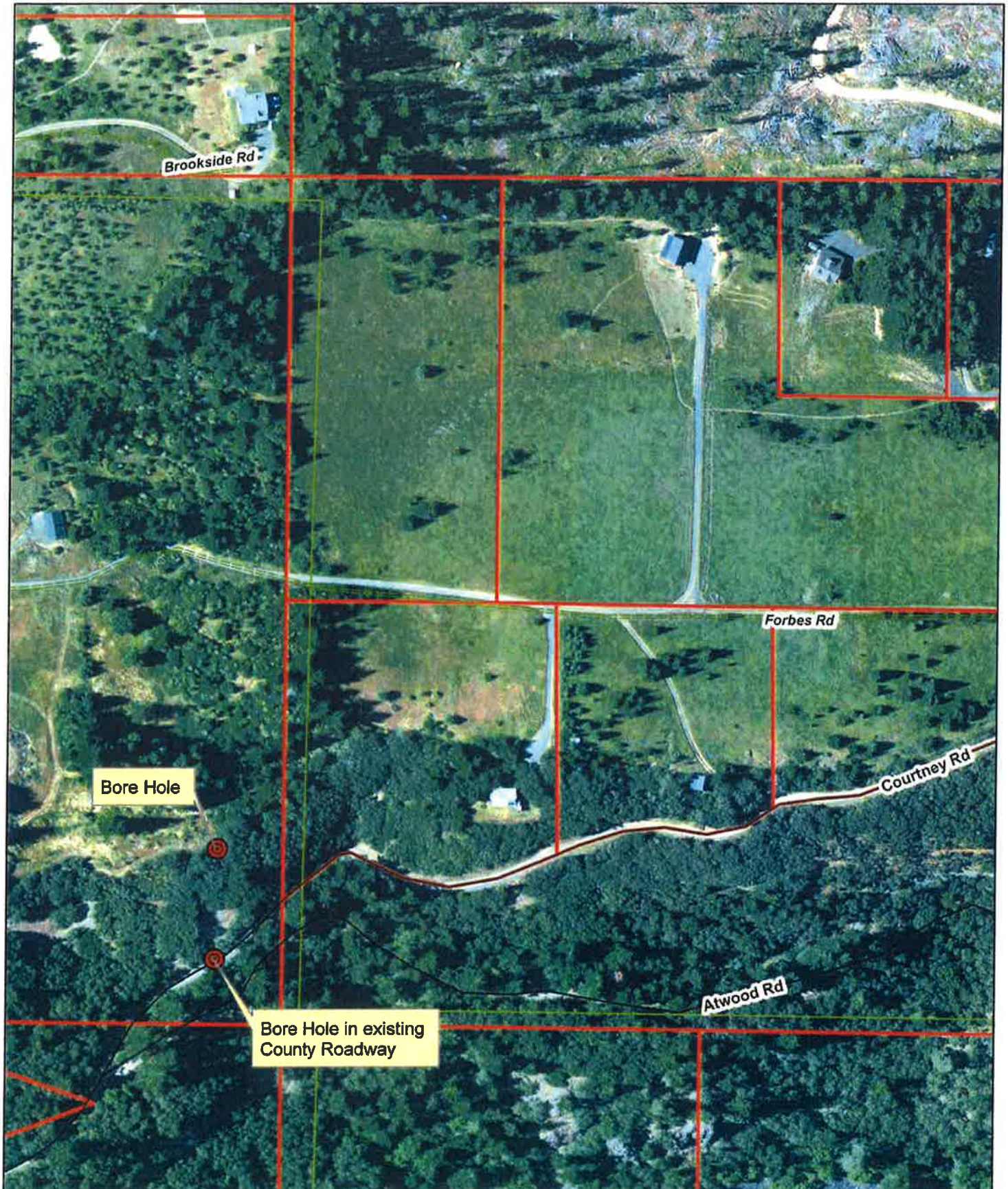


Proposed Drilling Vicinity Map - Courtney Road Page 2 of 2



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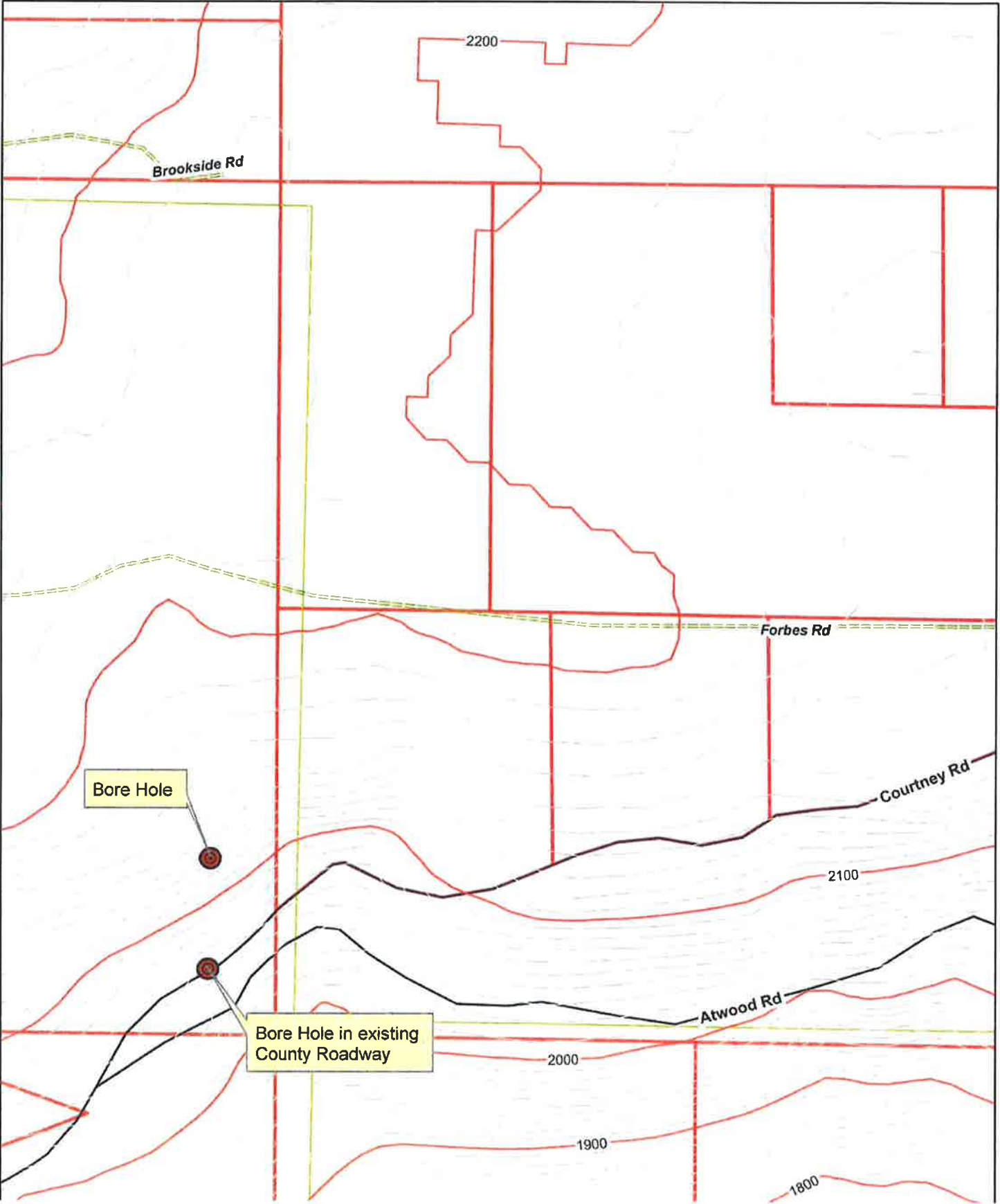
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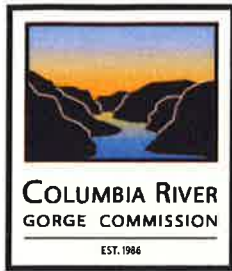


Proposed Drilling
Vicinity Map - Courtney Road
Page 2 of 2



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Feet





COLUMBIA RIVER GORGE COMMISSION STAFF REPORT

CASE FILE: C19-0006

PROPOSAL: The Columbia River Gorge Commission has received an application for a geological investigation for a future Courtney Road project.

APPLICANT: Klickitat County Public Works

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LAND USE DESIGNATION: The subject parcels are managed as General Management Area and designated Small-Scale Agriculture.

Note: According to Section 8(o) of the Scenic Area Act, the Forest Service designated some of the subject parcels General Management Area (GMA) Small-Scale Agriculture. For the purposes of this development review, the Special Management Area (SMA) guidelines no longer apply. The proposed development will be reviewed according to the applicable GMA land use and resource protection guidelines.

COMMENTS FROM INDIVIDUALS/AGENCIES/GOVERNMENTS:

Notice of the subject request was mailed to property owners within 200 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
Washington Natural Heritage Program

Washington Department of Fish and Wildlife
Friends of the Columbia Gorge

Written comments were received from Steve McCoy, Friends of the Columbia River Gorge; Kristen Tiede, Confederated Tribes of the Umatilla Indian Reservation; Christian Nauer, Confederated Tribes of the Warm Springs Reservation; Amber Johnson, Washington Department of Fish and Wildlife; and Fred Heany.

FINDINGS OF FACT:

A. Land Use

1. The subject parcels are in the General Management Area and designated Small-Scale Agriculture. The proposed geotechnical investigation will be undertaken on three privately owned parcels and Klickitat County right-of-way for Courtney Road.
2. The applicant proposes geotechnical exploration within the area of a future road improvement project for Courtney Road. The work will provide information to determine overall project stability, slope constraints and project footprint.
3. Nine bore holes are proposed that are between 4" and 6" in diameter. The proposal does not include the removal of any trees or the construction of temporary roads. The proposal is limited to nine boreholes and the geotechnical exploration only, and no permanent road improvements. The applicant proposes minimal ground disturbance, using a rubber tracked drilling vehicle for work done in areas without road access. No spoil pits are proposed. All holes are proposed to be refilled and all disturbed areas are proposed to be restored to pre-existing conditions after work is completed.
4. Commission Rule 350-81-190(l) lists as a review use on lands designated Small-Scale Agriculture:

Construction, reconstruction, or modifications of roads not in conjunction with agriculture.

This application involves geotechnical exploration in support of the design and construction of planned improvements to Courtney Road. While the proposed project itself does not constitute a construction, reconstruction, or modification of roads, its purpose is to support future construction of improvements to Courtney Road. The project is still in planning stages and a final design has not yet been determined, so review of the entire proposal is premature. Therefore, this review addresses the geotechnical exploration only, and not any permanent road improvements. **A Condition of Approval states that the Director's Decision and the findings and conclusions in this Staff Report apply only to the geotechnical investigation proposed with this application. Approval of this application does not constitute or infer approval of any Courtney Road improvement project.**

Conclusion:

The proposed development is a reviewable use on lands designated GMA Small-Scale Agriculture provided it does not adversely affect scenic, cultural, natural, or recreation resources in the National Scenic Area.

B. Scenic Resources

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

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

The proposed development does not include any new dwellings, buildings, or roads. The proposal involves only the drilling of boreholes for geotechnical exploration and retains existing topography. The applicant proposes minimal ground disturbance, using a rubber tracked drilling vehicle for work done in areas without road access as described in the approved site plan.

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

New buildings shall be compatible with the general scale (height, dimensions and overall mass) of existing nearby development. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

The proposed development does not include any new buildings, or expansion of existing development. The proposal involves only the drilling of boreholes for a geotechnical exploration. Commission Rule 350-81-520(1)(b) does not apply.

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

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

No new vegetation is proposed or required. Commission Rule 350-81-520(1)(c) does not apply.

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

For all proposed development, the determination of compatibility with the landscape setting shall be based on information submitted in the site plan.

A site plan was provided consistent with Commission Rule 350-81-032 Application for Review and Approval. The landscape setting for the subject parcel is Oak-Pine Woodlands. Commission Rule 350-81-520(3)(c) contains the design guidelines for proposed uses in the Oak-Pine Woodlands landscape setting. Findings B.20 through B.22 address the applicable guidelines in Commission Rule 350-81-520(3)(c) using information submitted in the site plan, consistent with this rule.

5. Commission Rule 350-81-520(2) contains guidelines that affect developments on sites visible from Key Viewing Areas. Staff has determined that the subject parcel is topographically visible from the following key viewing areas:

KEY VIEWING AREAS	DISTANCE ZONE		
	FOREGROUND	MIDDLEGROUND	BACKGROUND
	0 - 1/4 Mile	1/4 - 3 MILES	Over 3 Miles
Historic Columbia River Highway		X	X
Interstate 84		X	X
Columbia River		X	X
Rowena Plateau			X
Washington State Route 141		X	X
Old Washington State Route 14		X	
Oregon Highway 35			X

The proposed development will be topographically visible from seven Key Viewing Areas (KVAs). Therefore, the guidelines of Commission Rule 350-81-520(2) apply to the proposed development.

6. Commission Rule 350-81-520(2)(b) requires new development to be visually subordinate to its setting when viewed from Key Viewing Areas.

Commission Rule 350-81-020(170) defines visually subordinate as follows:

Visually subordinate: A description of the relative visibility of a structure where the structure 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 development includes the drilling of nine boreholes. The proposal does not include any permanent above-ground structures or development beyond the drilling and refilling of the boreholes. The nature of the development renders it visually subordinate, despite its visibility and proximity to Key Viewing Areas.

7. Commission Rule 350-81-520(2)(c) states that the determination of potential visual effects and compliance with visual subordination policies shall include consideration of the cumulative effects of proposed developments.

Commission Rule 350-81-020(40) defines “cumulative effects” as:

The combined effects of two or more activities. The effects may be related to the number of individual activities, or to the number of repeated activities on the same piece of ground. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

As discussed above, the proposal itself has no permanent visual impact because of the nature of the development. Klickitat County is planning to design road improvements based on the results of this testing. That development will be permanent and is subject to review under the Management Plan. Design and conditions of approval for a future new road alignment will be required to meet the applicable standard of visually subordinate.

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

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

(A) Decisions shall include written findings addressing the factors influencing potential visual impact, including but not limited to:

- (i) The amount of area of the building site exposed to Key Viewing Areas.*
- (ii) The degree of existing vegetation providing screening.*
- (iii) The distance from the building site to the Key Viewing Areas from which it is visible.*
- (iv) The number of Key Viewing Areas from which it is visible.*
- (v) The linear distance along the Key Viewing Areas from which the building site is visible (for linear Key Viewing Areas, such as roads).*

The proposed development includes the drilling of nine boreholes. The proposal does not include any permanent above-ground structures or development beyond the drilling and refilling of these boreholes. The potential for visual impacts as seen from the Key Viewing Areas is minimal. Conditions of approval require that disturbed areas are immediately returned to their pre-existing conditions.

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

Conditions may be applied to various elements of proposed developments to ensure they are visually subordinate to their setting as seen from Key Viewing Areas, including but not limited to:

- (i) Siting (location of development on the subject property, building orientation, and other elements).*
- (ii) Retention of existing vegetation.*
- (iii) Design (color, reflectivity, size, shape, height, architectural and design details and other elements).*
- (iv) New landscaping.*

The proposed development includes the drilling of nine boreholes. The proposal does not include any permanent above-ground structures or development beyond the drilling and refilling of these boreholes. The nature of the development will render the development visually subordinate, despite its visibility and proximity to Key Viewing Areas. No trees are proposed to be removed, and no new landscaping is required by this Decision. **Nevertheless, staff requires the following conditions to be implemented as part of the final decision to ensure that the overall visual character and appearance of the landscape is retained: To the extent practicable, all existing tree cover, and vegetation shall be retained and protected from damage. The number of bushes removed, or limbed being shall be the minimum necessary to complete the project. No trees shall be removed, unless otherwise deemed necessary for safety purposes.**

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

New development shall be sited to achieve visual subordination from Key Viewing Areas, unless the siting would place such development in a buffer specified for

protection of wetlands, riparian corridors, sensitive plants, or sensitive wildlife sites or would conflict with guidelines to protect cultural resources. In such situations, development shall comply with this guideline to the maximum extent practicable.

The proposal will be visually subordinate by its nature. No grading is required for the geotechnical exploration. The development is not located within the sites or buffers of sensitive natural resources (See Section E. Natural Resources below).

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

New development shall be sited using existing topography and/or existing vegetation as needed to achieve visual subordination from Key Viewing Areas.

The proposal will be visually subordinate by its nature. No grading is required for the geotechnical exploration.

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

Existing tree cover screening proposed development from Key Viewing Areas shall be retained as specified in the Landscape Settings Guidelines in 350-81-520(3).

The subject parcel is in the Oak-Pine Woodlands landscape setting. Findings B.20 through B.22 address the applicable guidelines for proposed development in this landscape setting.

13. Commission Rule 350-81-520(2)(h) states:

The silhouette of new buildings shall remain below the skyline of a bluff, cliff, or ridge as seen from Key Viewing Areas. Variances to this guideline may be granted if application of the guideline would leave the owner without a reasonable economic use. The variance shall be the minimum necessary to allow the use and may be applied only after all reasonable efforts to modify the design, building height, and site to comply with the guideline have been made.

No new buildings are proposed. This rule does not apply.

14. Commission Rule 350-81-520(2)(j) applies to new landscaping. No new landscaping is required to render this development visually subordinate. The rule does not apply.

15. Commission Rules 350-81-520(2)(l) states:

Unless expressly exempted by other provisions in 350-81-520, colors of structures on sites visible from Key Viewing Areas shall be dark earth-tones found at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval.

There are no structures proposed in this application.

16. Commission Rule 350-81-520(2)(m) states:

The exterior of buildings on lands seen from Key Viewing Areas shall be composed of non-reflective materials or materials with low reflectivity, unless the structure would be fully screened from all Key Viewing Areas by existing topographic features.

There are no buildings proposed in this application.

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

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

There are no structures proposed in this application, including exterior lighting.

18. Commission Rule 350-81-520(2)(z) states:

Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill slopes from Key Viewing Areas

No new roads or buildings are proposed as part of this application. This application does not include any cut banks or fill slopes.

19. Commission Rule 350-81-520(2)(aa) requires all proposed structural development involving more than 200 cubic yards of grading on sites visible from Key Viewing Areas to include a grading plan containing specific plan elements.

This application does not include any grading including cut banks or fill slopes. No new buildings, driveways, or roads are proposed with this application. A grading plan is not required.

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

21. Commission Rule 350-80-520(3)(c)(A) states:

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

The proposed development does not include any new structures. The proposal involves only the drilling of boreholes for a geotechnical exploration. Commission Rule 350-81-520(3)(c)(A) does not apply.

22. Commission Rules 350-81-520(3)(c)(B) states:

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

(i) *At least half of any tree species planted for screening purposes shall be species native to the setting. Such species include Oregon white oak, ponderosa pine, and Douglas-fir.*

(ii) *At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.*

For substantially wooded portions:

(iii) *Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from key viewing areas shall be retained.*

For treeless portions or portions with scattered tree cover:

(iv) *Structures shall be sited on portions of the property that provide maximum screening from key viewing areas, using existing topographic features.*

(v) *Patterns of plantings for screening vegetation shall be in character with the surroundings. Residences in grassy, open areas or savannahs shall be partly screened with trees in small groupings and openings between groupings.*

(vi) *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 development does not include any new dwellings, buildings, or roads. The proposal involves only the drilling of boreholes for a geotechnical exploration. Staff finds that the project will retain the overall appearance of the landscape by retaining existing vegetation and topography to the maximum extent possible and restoring all disturbed areas to pre-existing conditions. No trees are proposed to be removed, and no new landscaping is required by this Decision. Nevertheless, staff finds that the following conditions of approval ensure that the overall visual character and appearance of the landscape is retained: To the extent practicable, all existing tree cover, and vegetation shall be retained and protected from damage. The number of bushes removed or limbed shall be the minimum necessary to complete the project. No trees shall be removed, unless otherwise necessary for safety purposes.

Conclusion:

With conditions of approval, the proposed development is consistent with the applicable policies of the Management Plan and guidelines in Commission Rule 350-81-520 that protect scenic resources in the National Scenic Area.

C. Cultural Resources

1. Commission Rule 350-81-540(1)(c)(A) requires a cultural resources reconnaissance survey for all proposed uses except those in 350-81-540(1)(c)(A)(iii)(I) through (VI).
2. Chris Donnermeyer, Heritage Resource Program Manager for the Columbia River Gorge National Scenic Area, reviewed the new land use application and determined in a Cultural Resources Survey Determination, dated May 28, 2019, that pursuant to Commission Rule 350-81-540(1)(c)(A)(ii) a cultural resource reconnaissance survey is required because the project occurs within 500 ft. of a known archaeological site and would occur on a site that has been determined to be located within a high probability area.

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

- (i) Reconnaissance surveys for large-scale uses shall be designed by a qualified professional. A written description of the survey shall be submitted to and approved by the Gorge Commission's designated archaeologist.*
- (ii) Reconnaissance surveys shall reflect the physical characteristics of the project area and the design and potential effects of the proposed use. They shall meet the following guidelines:*
 - (I) Archival research shall be performed before any field work. It should entail a thorough examination of tax records; historic maps, photographs, and drawings; previous archaeological, historic, and ethnographic research; cultural resource inventories and records maintained by federal, state, and local agencies; and primary historic accounts, such as diaries, journals, letters, and newspapers.*
 - (II) Surface surveys shall include the entire project area, except for inundated areas and impenetrable thickets.*
 - (III) Subsurface probes shall be placed at intervals sufficient to document the presence or absence of cultural resources.*
 - (IV) Archaeological site inventory forms shall be submitted to the State Historic Preservation Officer whenever cultural resources are discovered.*

The applicant hired Melissa Darby, MA, with Lower Columbia Research and Archeology, LLC to conduct the reconnaissance survey and prepare the Cultural Resources Report. On March 8, 2018, she conducted field work in the area of the proposed development in accordance with Commission Rule 540(1)(c)(F).

5. Commission Rule 350-81-540(1)(c)(G) states:

The results of a reconnaissance survey for large-scale uses shall be documented in a confidential report that includes:

- (i) A description of the proposed use, including drawings and maps.*
- (ii) A description of the project area, including soils, vegetation, topography, drainage, past alterations, and existing land use.*
- (iii) A list of the documents and records examined during the archival research and a description of any prehistoric or historic events associated with the project area.*
- (iv) A description of the fieldwork methodology used to identify cultural resources, including a map that shows the project area, the areas surveyed, and the location of subsurface probes. The map shall be prepared at a scale of 1-inch equals 100 feet (1:1,200), or a scale providing greater detail.*
- (v) An inventory of the cultural resources that exist in the project area, including a written description, photographs, drawings, and a map. The map shall be prepared at a scale of 1-inch equals 100 feet (1:1,200), or a scale providing greater detail.*
- (vi) A summary of all written comments submitted by Indian tribal governments and other interested persons.*
- (vii) A preliminary assessment of whether the proposed use would or would not have an effect on cultural resources. The assessment shall incorporate concerns and recommendations voiced during consultation meetings and*

information obtained through archival and ethnographic research and field surveys.

Ms. Darby completed the required Cultural Resources Report, titled "Cultural Resources Survey of Courtney Road from MP 3.00 to MP 4.69, Klickitat County," on March 20, 2018. Ms. Darby concluded that the proposed development would have no impact on resources in the area. Ms. Darby did recommend an archaeologist be present to spot monitor the activities during filling and planting, and that an archaeologist work with Klickitat County road engineers and work crews prior to project implementation to ensure avoidance of the site. These recommendations are included as conditions of approval in the Director's Decision.

6. The Cultural Resources Report was presented to Chris Donnermeyer, Heritage Program Manager for the U.S. Forest Service Scenic Area Office. Mr. Donnermeyer reviewed the report for compliance with the requirements for reconnaissance surveys and survey reports for large-scale uses in Commission Rules 350-81-540(1)(c)(F) and (G) and submitted comments in a letter on May 28, 2019. Mr. Donnermeyer concurs with Ms. Darby's findings that the proposed development has no effect on known cultural resources. Mr. Donnermeyer also concurred with Ms. Darby's recommendations that an archeologist monitor project activities and brief Klickitat County work crews and engineers to avoid unplanned impacts to cultural resources. These recommendations are included as conditions of approval in the Director's Decision.
7. Commission Rules 350-81-540(2)(b) and (3)(b) require the Executive Director to submit a copy of all Cultural Resource Reports to the State Historic Preservation Officer (SHPO) and the Native American tribal governments for their review. The rules provide for a 30-day comment period to submit written comments. Pursuant to Commission Rule 350-81-540(2)(b)(A), a copy of Ms. Darby's report and Mr. Donnermeyer's letter were sent to the State Historic Preservation Officer and tribal governments on May 30, 2019 for comment. No comments were received following the notice.
8. Commission Rule 350-81-540(2)(c)(B)(ii) states that the cultural resource protection process may conclude when:

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

Ms. Darby's assessment of the proposed development in the Cultural Resources Report is the development would have no effect on cultural resources, and Mr. Donnermeyer concurs with Ms. Darby's recommended assessment. Initial notice of the proposed development was mailed on May 8, 2019 to interested parties. Staff provided the Cultural Resource Report to the State Historic Preservation Office and the four Native American treaty tribes on May 30, 2019 during the 30-day comment period which ended June 30, 2019.

Comments were received from the Umatilla and Warm Springs tribes. Comments were in concurrence with the findings of Ms. Darby and Mr. Donnermeyer. No substantiated concerns were voiced by interested persons within 21 calendar days of the date that a notice was mailed, and no substantiated concerns regarding cultural resource impacts were voiced by the State

Historic Preservation Officer or Indian tribal governments during the comment period. Therefore, the cultural resource protection process may conclude.

9. Commission Rule 350-81-540(1)(g) requires consideration of cumulative effects of proposed developments that require a reconnaissance or historic survey, a determination of significance, an assessment of effect, or a mitigation plan. Commission Rule 350-81-020(40) defines “cumulative effects” as:

The combined effects of two or more activities. The effects may be related to the number of individual activities, or to the number of repeated activities on the same piece of ground. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

In her report, Ms. Darby makes the determination that the proposed development has no effect on cultural resources given the location of the project, the proposed measures during development listed in Finding C.5, and conditions of approval protecting unknown cultural resources and human remains discovered during construction included in Findings C.10 and C.11. Ms. Darby’s determination of no effect to cultural resources also means no adverse cumulative effects to cultural resources.

10. Commission Rule 350-81-540(6) protects cultural resources discovered during construction. It requires that if cultural resources are discovered after construction begins, all construction activities within 100 feet of the discovered cultural resource shall cease; further disturbance is prohibited, and the Gorge Commission shall be notified within 24 hours of the discovery. this requirement is included in this decision as condition of approval.
11. Commission Rule 350-81-540(7) contains provisions addressing discovery of human remains during construction. A condition of approval requiring adherence to these measures if human remains are discovered is included in this Director’s Decision.

Conclusion:

With conditions protecting unknown cultural resources and human remains discovered during construction, the proposed development is consistent with the guidelines in Commission Rule 350-81-540 that protects cultural resources in the National Scenic Area.

D. Recreation Resources

1. Commission Rule 350-81-086 states:

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

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

Conclusion:

The proposed development is consistent with Commission Rule 350-81-086 that protects recreation resources in the National Scenic Area.

E. Natural Resources

1. Commission Rule 350-81 provides guidelines for protecting wetlands (Section 560); streams, ponds, lakes, and riparian areas (Section 570); sensitive wildlife areas and sites (Section 580); and sensitive plants (Section 590).
2. The Gorge Commission's natural resource inventories do not identify any wetlands within 1,000 feet of the proposed development. The closest wetland to any of the nine bore holes is 1,300 feet. Therefore, Commission Rule 350-81-560 that protects wetlands does not apply.
3. The Gorge Commission's natural resource inventories identify one intermittent stream in the project vicinity. The stream is located approximately 300 feet away from two borehole locations and 700 feet from another borehole location.
4. Pursuant to Commission Rule 350-81-570(7), intermittent streams have 50-foot buffers. The proposed development will be located more than 50 feet from the ordinary high-water mark of any stream, and outside of the buffer zones. The development is not located within any water resources or their buffers.
5. The Gorge Commission's sensitive wildlife inventory shows the applicant's development site is within a deer and elk winter range boundary. Commission Rule 350-81-580(1)(a)(A) defines sensitive wildlife areas to include deer and elk winter range.
6. Commission Rule 350-81-580(4)(a) requires the Gorge Commission notify the Washington Department of Fish and Wildlife (WDFW) when a new development or land use is proposed within a sensitive wildlife area, in this case, deer and elk winter range. On May 8, 2019, Gorge Commission staff sent WDFW a copy of the applicant's land use application and site plan.
7. Commission Rule 350-81-580(4)(c) states:

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

Amber Johnson, WDFW Habitat Biologist, did not indicate any concerns with the proposed geotech work, although, she did provide comment about the future road improvement project for Courtney Road. The proposed geotech work will not reduce the acreage of deer and elk winter range nor result in changes to vegetation or accessibility of winter range habitat to wildlife. The proposed use will not compromise the integrity of the wildlife area.

8. The Gorge Commission's sensitive plant inventory does not show any sensitive plant sites within 1,000-feet of the proposed development. Jasa Holt, with Department of Natural Resources Natural Heritage Program, reviewed the project and stated no concerns with the drilling sites. Therefore, Commission Rule 350-81-590 that protects sensitive plants does not apply.

Conclusion:

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

F. Treaty Rights Protection

1. Commission Rule 350-81-084(1) provides protection of tribal treaty rights from new development in the National Scenic Area.
2. 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 Native American treaty rights and provides 20 days for tribal governments to submit comments.

The subject parcel has no access to the Columbia River, but pursuant to other noticing requirements, notice of the proposal was mailed or emailed to the four tribal governments on May 8, 2019. The notice included a comment period of 21 days that ended on May 29, 2019.

3. 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.
4. Commission Rule 350-81-084(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 parcel does not provide access to the Columbia River or its fish bearing tributaries. No known treaty rights are affected by this proposal and no treaty rights concerns were raised by the tribal governments. Because the proposed use does not affect or modify treaty or other rights of any Indian tribe, the treaty rights protection process may conclude pursuant to Commission Rule 350-91-084(c)(B).

Conclusion:

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

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