

## COLUMBIA RIVER GORGE COMMISSION DIRECTOR'S DECISION

**CASE FILE:** C20-0005

**PROPOSAL:** The Columbia River Gorge Commission has received an application to remove loose rock from a vertical rock face adjacent to SR 14.

**APPLICANT:** Washington Department of Transportation (WSDOT)

**LANDOWNERS:** WSDOT

**LOCATION:** The subject properties are all located adjacent and east of the Bingen/White Salmon Urban Area in Sections 33 and 34, Township 3 North, Range 11 East, W.M., Klickitat County Tax Lot Numbers 03-11-33-0000-13/00, 03-11-34-0000-09/00, 03-11-34-0000-16/00.

### LAND USE

**DESIGNATION:** The subject parcels are in the Special Management Area and designated Agriculture.

### DECISION:

Based upon the following findings of fact, the land use application by WSDOT to remove loose rock from a vertical rock face adjacent to SR 14 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 (Management Plan), and approvable under Commission Rule 350-81, and is hereby **APPROVED**.

### CONDITIONS OF APPROVAL:

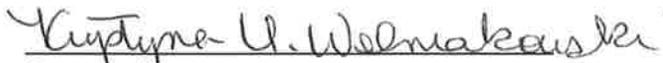
The following conditions of approval are given to ensure that the subject request is consistent with the standards of Section 6 and the purposes of P.L. 99-663, and the Management Plan and approvable under Commission Rule 350-81. Compliance with them is required. **This decision must be recorded in county 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 C20-0005, 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 documents 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, alterations, or grading not included in the approved application or site plan will require a new application and review.
4. The developments 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.

5. All newly exposed rock faces shall be treated with Permeon rock stain until the rock face blends with the adjacent naturally occurring rock face.
6. All disturbed soils shall be reseeded with grasses and forbs from the *Recommended Seed Mixes for East Side Environments*, which is included as an attachment to this Director's Decision. Disturbed areas shall be revegetated immediately upon completing the project (or as soon as possible thereafter if the project is completed during the winter months) with at least 80 percent vegetative coverage within 1 year.
7. 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](mailto: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.
8. 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.

DATED AND SIGNED THIS 10 day of August 2020 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 10 day of August 2022 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 9 day of September 2020.*

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.

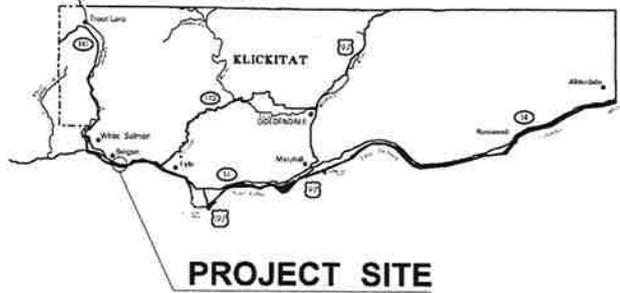
cc:

Confederated Tribes and Bands of the Yakama Nation  
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  
Steve McCoy, Friends of the Columbia Gorge

**Attachments:**

Staff Report for C20-0005  
Approved site plan  
Recommended Seed Mixes for East Side Environments handout

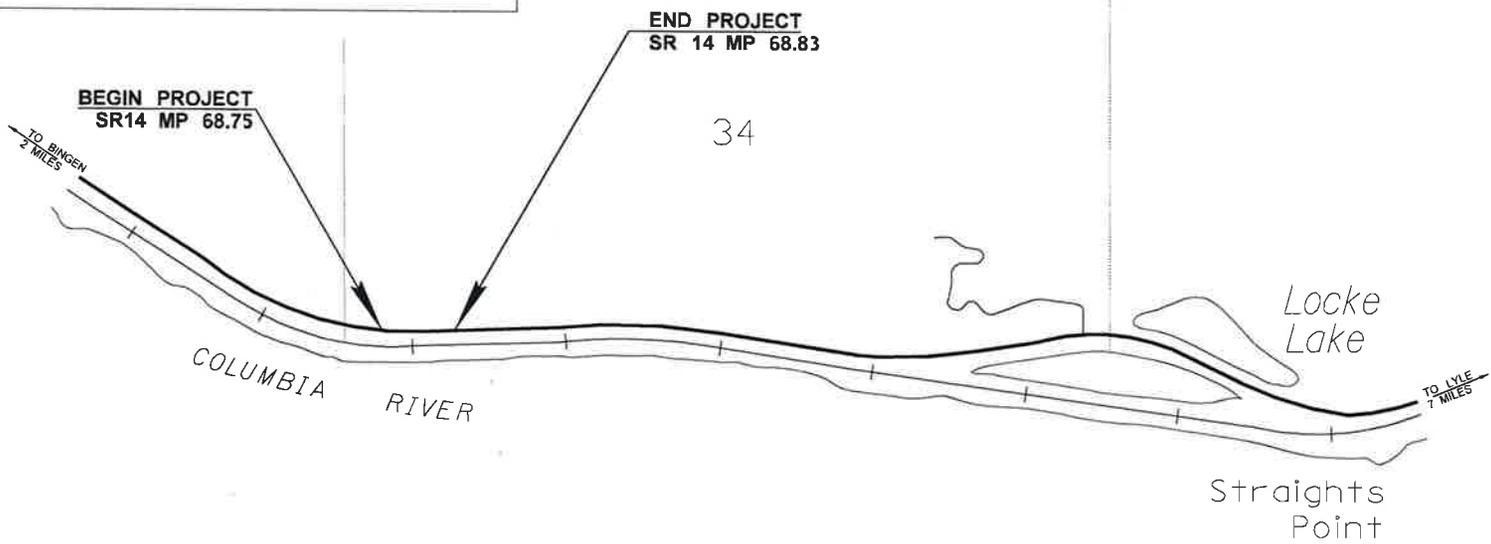
**KLICKITAT COUNTY**



T. 3N. R. 11E. W.M.

**APPROVED**

*Wagner*



FILE NAME		G:\44102\Design Projects\Jobs\MT0299 Group 25 - SR 14 1.7 Miles East of Bingen - Slope Stabilization\20-CADD-Plans\20-11 PS&E Sheets\020-Vicinity\MT0299_Grp25_P5_VM.dgn		REGION NO.		STATE		FED.AID PROJ.NO.		Washington State Department of Transportation		SR 14 1.7 MILES EAST OF BINGEN SLOPE STABILIZATION		Plot 1 PLAN REF NO VM1	
TIME		11:52:44 AM		10		WASH								B-GCET	
DATE		1/19/2012		MT0299										OF	
PLOTTED BY		oppenhh		CONTRACT NO.		LOCATION NO.								SHEETS	
DESIGNED BY		H. OPPENHEIMER													
ENTERED BY		H. OPPENHEIMER													
CHECKED BY		A. SUMINSKI													
PROJ. ENGR.		C. TAMS													
REGIONAL ADM.		D. WAGNER		REVISION		DATE		BY		P.E. STAMP BOX		DATE		P.E. STAMP BOX	

**Recommended Seed Mixes, Mulch, and Fertilizer  
for Temporary and Permanent Revegetation in East Side Environments**  
Based on recommendations from Andrea Ruchty, district botanist, GPNF, Mt. Adams Dist.,  
and Robin Dobson, CRGNSA botanist

<i>Native Seed Mixture #1: Recommendations for Composition and Application Rates</i>		
Species	Hand Seeding including Handheld Spreaders	Hydromulcher
blue wildrye ( <i>Elymus glaucus</i> )	20 lbs/acre	15 lbs/acre
California brome ( <i>Bromus carinatus</i> )	20 lbs/acre	15 lbs/acre
slender hairgrass ( <i>Deschampsia elongata</i> )	10 lbs/acre	5 lbs/acre
broadleaf lupine ( <i>Lupinus latifolia</i> )		
Idaho fescue ( <i>Festuca idahoensis</i> )		
<b>Total</b>	<b>50 lbs/acre</b>	<b>35 lbs/acre</b>

<i>Native Seed Mixture #2: Recommendations for Composition</i>	
Species	% by wt.
California Brome ( <i>Bromus carinatus</i> )	20
Sheep fescue ( <i>Festuca ovina</i> )	40
Blue wildrye ( <i>Elymus glaucus</i> )	10
Canada bluegrass ( <i>Poa compressa</i> )	10
Blue bunch wheatgrass ( <i>Agropyron spicatum</i> )	20
Sickle-keeled lupine ( <i>Lupinus albicaulis</i> )	5 oz./100# seed
America vetch ( <i>Vicia Americana</i> )	5 oz./100# seed

<i>Non-Native Seed Mixture: Recommendations for Composition and Application Rates</i>	
Species	Application Rate
Annual ryegrass ( <i>Lolium multiflorum</i> )	10 lbs/acre (fine seed)
Perennial ryegrass ( <i>L. perenne</i> )	10 lbs/acre (fine seed)
Soft white winter wheat ( <i>Triticum aestivum</i> )	40 lbs/acre
Sickle-keeled lupine ( <i>Lupinus albicaulis</i> )	10 lbs/acre
<b>TOTAL</b>	<b>70 lbs/acre</b>

Herbaceous plants can be added after seeding:

Chrysothamnus nauseosus (rabbitbrush)	1 -2 oz./ac.
Achillea millefolium (Yarrow)	1 -2 oz./ac.
Eriogonum strictum	1 -2 oz./ac.
Lupinus bicolor or latifolius var. thompsonianus	1 -2 oz./ac.
Eriophyllum lanatum (Oregon sunshine)	1 -2 oz./ac.
Bitter brush (Purshia tridentate)	10 small plants/ac.
Arrowleaf Balsam root	

**Notes:**

**Application Method:** Hand or machine, ideally in the fall. Machines such as hydromulchers, usually have agitators which keep the seed well mixed and applied evenly. In hand-seeding operations it is more difficult to achieve an even distribution of seed. For this reason more lbs /acre have been prescribed to compensate for inadvertent patchiness. Hand seeding should utilize two passes of the area: 1 pass for small, fine seed such as slender hairgrass, and a second pass for the larger seeded species such as blue wildrye and California bromæ. Rice hulls may need to be added to the DEEL to get dispersion distance. Contact with the soil is very important, best results are achieved when the seed is lightly raked or pressed into the soil.

**Seed Storability:** Generally grass and forb species will hold reasonable germination (>80%) for 6-7 years in uncontrolled conditions. Thin-coated species such as *Bromus* will hold only 2-3 years or so.

**Seed Source:** Try to use appropriate local seed source for natives. Some flexibility for elevation is ok in a pinch. One native seed source is Bolson Seed Company, La Grande, OR (541)965-8285. Milestone Nursery (Lyle), Inside Passage Seed Co., Oregon Wholesale Seed Company (<http://www.oregonwholesaleseed.com/>), Rainier Seeds, Hughes Feed and Grain (the Dalles) and Dallesport Seed are other possible sources of seed, as well.

**Fertilizer:** Where there is a good "A" horizon probably don't need fertilizer. For sites with little organic matter use 200 lbs 16-20-0 /ac.

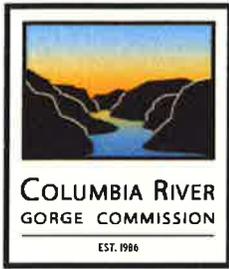
**Mulch:** Use certified weed free straw mulch whenever possible. Only 1-2" (2 tons/ac.) is needed and should be evenly applied. **Too deep can be more detrimental than none at all.** Ideally, it should be chopped and applied by machine. To further reduce the chance of introducing non-natives in to project areas, straw derived from native species is preferred. If not available, then straw from short-lived or non-persistent mulch sources such as annual rye or cereal grain seed production fields would be the next choice.

Using weed-free straw mulch is an important component in our strategy to control the spread of invasive species on the Forest. Weed-free straw is still a developing resource and its availability may be variable. Finding it will likely take some looking around. Oregon and Washington currently have weed-free certification programs. See the following websites for current lists of weed-free straw suppliers:

- ✓ [http://www.nwcb.wa.gov/WWHAM/WWHAM\\_suppliers.htm](http://www.nwcb.wa.gov/WWHAM/WWHAM_suppliers.htm)
- ✓ [http://oregon.gov/ODA/CID/weed\\_free\\_forage.shtml](http://oregon.gov/ODA/CID/weed_free_forage.shtml)

The following are some more potential contacts for weed-free straw:

- Elwyn Crutcher, Stanwood, WA, 360-939-2334 (he will deliver for a charge, is generally sold out by spring).
- Wallowa County Hay Growers Association:  
<http://www.certifiedwallowacountyhay.com/>
- John Williams, OSU Extension in Wallowa County, 541-426-3143.
- Randy Black, Oregon Dept of Agriculture, 503-986-4620.
- Allen Schnetzky, Weed Supervisor, Wallowa County 541-426-3332.



## COLUMBIA RIVER GORGE COMMISSION STAFF REPORT

**CASE FILE:** C20-0005

**PROPOSAL:** The Columbia River Gorge Commission has received an application to remove loose rock from a vertical rock face adjacent to SR 14.

**APPLICANT:** Washington Department of Transportation (WSDOT)

**LANDOWNER:** WSDOT

**LOCATION:** The subject properties are all located adjacent and east of the Bingen/White Salmon Urban Area in Sections 33 and 34, Township 3 North, Range 11 East, W.M., Klickitat County Tax Lot Numbers 03-11-33-0000-13/00, 03-11-34-0000-09/00, 03-11-34-0000-16/00.

### LAND USE

**DESIGNATION:** The subject parcels are in the Special Management Area and designated Agriculture.

### 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
- Skamania County
- Washington Natural Heritage Program
- Washington Department of Fish and Wildlife
- Friends of the Columbia Gorge

Written comments were received from Steve McCoy, Attorney for Friends of the Columbia River Gorge.

## A. LAND USE

1. The Washington State Department of Transportation (WSDOT) requests approval to remove loose rock from the vertical face adjacent to SR 14. The proposed project will address rockfall and associated safety issues on a tall rock and talus slope between SR-14 MP 68.75 and 68.83, approximately 1.9 miles east of Bingen, and west of the Courtney Road/Coyote Wall.

The project will involve intensive, strategic rock scaling on the 250-foot tall, 500-foot long basalt slope, and removal of a short 1:1 talus slope at the bottom of the cliff for the length of the project to provide additional rockfall catchment and provide protection for vehicles from errant rocks. Project activities include rock removal using primarily hand tools and power tools. Drilling and bolting on the rock face may be necessary, and will be determined in the field. The catchment area will be constructed as a Stage 1 Rockfall Ditch, designed to trap falling material short of SR-14, and does not require additional fencing, walls, or barriers. Talus slopes that have accumulated at the base of the slope will be excavated. Targeted controlled blasting to a height of 40 feet may be required at the toe of the cliff to maintain minimum width of the ditch if there is loose rock. During scaling and blasting, traffic impacts will occur, but will be kept to a minimum. Train traffic should also be stopped during any blasting, but could be allowed while slope scaling activities are occurring.

2. Commission Rule 350-81-190 (2)(u) allows as a review use on lands designated SMA Agriculture, road and railroad construction and reconstruction, subject to review for compliance with the scenic, cultural, natural, and recreation resource 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 road, SR-14 already exists, and the work will all be completed within WSDOT's right-of-way. The scaling activities will take place on vertical rock faces and steep talus slopes. These areas are not suitable for the production of agricultural crops or livestock. The proposed activities will minimize the loss of suitable land, consistent with this rule.

### CONCLUSION:

The proposed development is a review use on lands designated SMA Agriculture, subject to Commission Rules 350-81-520 through 350-81-620 that 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 rules for lands within SMAs based on Landscape Setting, regardless of visibility from KVAs. The subject parcels are in the Oak-Pine Woodland Landscape Setting. Commission Rule 350-81-530(1)(a)(B) states:

*Coniferous Woodland and Oak-Pine Woodland: Woodland areas shall retain the overall appearance of a woodland landscape. New developments and land uses shall retain the overall visual character of the natural appearance of the Coniferous Woodland and Oak-Pine Woodland landscape.*

*(i) Buildings shall be encouraged to have a vertical overall appearance in the Coniferous Woodland landscape setting and a horizontal overall appearance in the Oak-Pine Woodland landscape setting.*

*(ii) Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.*

No new buildings or structures are proposed. A condition of approval requires all disturbed soils to be reseeded with grasses and forbs from the Recommend Seed Mixes for East Side Environments. Disturbed areas shall be revegetated immediately upon completing the project (or as soon as possible thereafter if the project is completed during the winter months) with at least 80 percent vegetative coverage within 1 year.

2. Commission Rule 350-81-530(2) includes rules for development and uses visible from KVAs. 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.*

The project site is visible from the following five KVAs: Columbia River, Historic Columbia River Highway, I-84, Rowena Plateau, and SR 14. Commission Rule 350-81-530(2) rules apply.

3. 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."*

Commission Rule 350-81-530(2)(c) specifies the scenic standard for all developments and uses on lands designated Agriculture in the Oak-Pine Woodland Landscape Setting is *visually subordinate*.

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

*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 applicants provided a *Visual Quality Assessment Technical Memorandum*, dated January 24, 2020, that detailed the work and proposed mitigation. According to the application materials, the project can be broken down into four distinct pieces: scaling; talus removal; controlled blasting; and construction of the ditch.

Scaling will occur in two distinct areas of exposed basalt above the talus slope. The intent is to remove known areas of loose, unstable rock. Rock scaling will not alter the overall slope structural appearance, affect slope pitch, height, or aspect, or realign any structural elements of SR 14. Primary temporary impacts from all KVAs will be the appearance of unweathered rock, increasing reflectivity and visibility. The weathering agent Permeon will be applied to all newly-exposed rock faces to reduce visibility and reflectivity, and blend with adjacent natural rock faces. The Permeon treatment will help the newly exposed rock blend in the existing weathered rock.

Talus removal will extend roughly the length of the project in order to construct the rockfall ditch and to eliminate a "rock launching" feature adjacent to SR 14. Talus removal will expose unweathered basalt, creating a contrast with surrounding natural rock faces, and will be temporarily visible from all analyzed Key Viewing Areas. The weathering agent Permeon will be applied to all newly-exposed rock faces to reduce visibility and reflectivity, and blend with adjacent natural rock faces.

Controlled blasting will be required the length of the project in talus removal areas to address potential bedrock outcrops that could encroach into the new rockfall ditch or create angled launching features in close proximity to SR 14. The weathering agent Permeon will be applied to all newly-exposed rock faces to reduce visibility and reflectivity, and blend with adjacent natural rock faces. After blasting any exposed drill will be blended into the surrounding rock by using a pneumatic bush-hammer to roughen the surface and reduce the visibility of vertical lines.

A rockfall ditch will be constructed along the length of the project in areas excavated of talus and bedrock. Ditch widths will vary between 30 and 52 feet, with the bottom filled with gravel or similar material to absorb energy from rocks falling from the adjacent face. The ditch is depressed below the surface of SR 14, and will therefore be visible only from the SR 14 KVA. The rockfall ditch will match similar features east of the project and will not create any new visual impacts.

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.*

The applicants provided a cumulative effects analysis in the *Visual Quality Assessment Memorandum*, in part to satisfy this guideline. Using publicly available data on County building permit web sites and known WSDOT maintenance and construction actions, the applicants reviewed potential or immediate past projects within 2 miles east and west of the proposed project to provide context to potential larger physical changes over time. A 2-year analysis period was selected because WSDOT implements all visual mitigation requirements for the proposal so that it meet the visually subordinate standard within that timeframe. According to the applicants, the largest known future action within the vicinity of the rockfall safety project is the planned WSDOT Bingen Port Access Project located approximately 2 miles west of the project area. This project occurs within the Bingen Urban Area and is not subject to Scenic Area review. Other on-going and established practices include standard maintenance operations, including invasive plant treatment, associated with local and state roads, utilities, and the railroad. In 2004, WSDOT and the Federal Highway Administration (FHWA) authored a joint report, titled *State Route 14, Slope Stabilization Project, Skamania and Klickitat Counties, Washington, Environmental Assessment*. The report identified slope stabilization measures for the proposed project and multiple other slopes in Skamania and Klickitat Counties. If these other slopes meet the *visually subordinate* design standard, do not alter the overall slope structural appearance, affect slope pitch, height, or aspect, realign any structural elements of SR 14, and if they use Permeon to blend the newly exposed rock with the existing weathered rock and reseed exposed soils, adverse scenic effects, including cumulative effects, will be avoided.

4. 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.*

The proposed safety improvement is for an already established road. The adjacent natural landscape to the proposed development is steep dark colored basalt walls and talus slopes which are mostly exposed rock with a mix of seasonally light green and brown lichen and grasses. The weathering agent Permeon will be applied to all newly-exposed rock faces to reduce visibility and reflectivity, and blend with adjacent natural rock faces.

5. 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 safety project only addresses rockfall and associated safety issues on the tall rock and talus slope. Rock scaling will not alter the overall slope appearance, affect slope pitch, height, or aspect, or realign any structural elements of SR 14. No trees are proposed to be removed.

6. Commission Rule 350-81-530(2)(f)(A) 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 the site is visible.*
- (v) The linear distance along the Key Viewing Areas from which the building site is visible.*

<b>KEY VIEWING AREAS</b>	<b>DISTANCE ZONE</b>		
	<b>FOREGROUND</b>	<b>MIDDLEGROUND</b>	<b>BACKGROUND</b>
	0 - 1/4 Mile	1/4 - 3 MILES	Over 3 Miles
Columbia River	<b>x</b>	<b>x</b>	<b>x</b>
Historic Columbia River Highway		<b>x</b>	<b>x</b>
Interstate 84		<b>x</b>	<b>x</b>
Rowena Plateau			<b>x</b>
Washington State Route 14	<b>x</b>	<b>x</b>	<b>x</b>

Using GIS inventories and conducting site visits, staff found the site is intermittently visible from the Columbia River for 6.5 miles, the Historic Columbia River Highway for 6.5 miles, I-84 for 6.5 miles, Rowena and the Tom McCall Trail for 2.1 miles, SR 14 for 3.50 miles. The new road improvements will not alter the road's degree of visibility from KVAs. From SR 14, most viewers will encounter the site in the foreground for a long duration view of the dramatic rock face, which is visible to the north the length of the project area in both directions. The proposed talus removal, blasting, and scaling will blend into the landscape following mitigation.

From other KVAs farther away, the project will primarily occur in the midground and background. From these KVAs, viewers are unlikely to notice any changes. Within in the larger visual context of the landscape of the Burdoin Mountain, the tall cliffs and variable vegetation patterns will help to obfuscate the development from view.

7. Commission Rule 350-81-530(2)(f)(B) 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.*

*(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 findings in this Staff Report include conditions of approval in accordance with this rule.

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 rules in Commission Rule 350-81-550 and natural resource rules 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.*

No new buildings or structures are proposed; all work will be done at existing grade.

10. Commission Rule 350-81-530(2)(i) states,

*Structure height shall remain below the average tree canopy height of the natural vegetation adjacent to the structure, except if it has been demonstrated that meeting this guideline is not feasible considering the function of the structure.*

No new buildings or structures are proposed.

11. Commission Rule 350-81-530(2)(k) states, "Unless expressly exempted by other provisions in this chapter, colors of structures on sites visible from KVAs shall be dark earth-tones found at the specific site or the surrounding landscape."

No new buildings or structures are proposed.

12. Commission Rule 350-81-530(2)(l) states,

*The exterior of structures on lands seen from key viewing areas shall be composed of non-reflective materials or materials with low reflectivity.*

No new buildings or structures are proposed.

13. 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.*

No exterior lighting is proposed.

14. Commission Rule 350-81-530(3) contains rules 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). Commission Rule 350-81-530(3)(a) through (c) address scenic highway corridor strategies. Commission Rule 350-81-530(3)(d) states:

*The following guidelines shall apply only to development within the immediate foregrounds of key viewing areas. Immediate foregrounds are defined as within the developed prism of a road or trail KVA or within the boundary of the developed area of KVAs such as Crown Pt. and Multnomah Falls. They shall apply in addition to applicable guidelines in 350-81-530(2).*

*(A) The proposed development shall be designed and sited to meet the applicable scenic standard from the foreground of the subject KVA. If the development cannot meet the standard, findings must be made documenting why the project cannot meet the requirements in the previous section and why it cannot be redesigned or wholly or partly relocated to meet the scenic standard.*

*(B) Findings must evaluate the following:*

*(i) The limiting factors to meeting the required scenic standard and/or applicable guidelines from the previous section,*

*(ii) Reduction in project size;*

*(iii) Options for alternative sites for all or part of the project, considering parcel configuration and on-site topographic or vegetative screening;*

*(iv) Options for design changes including changing the design shape, configuration, color, height, or texture in order to meet the scenic standard.*

*(C) Form, line, color, texture, and design of a proposed development shall be evaluated to ensure that the development blends with its setting as seen from the foreground of key viewing areas:*

*(i) Form and Line-Design of the development shall minimize changes to the form of the natural landscape. Development shall borrow form and line from the landscape setting and blend with the form and line of the landscape setting. Design of the development shall avoid contrasting form and line that unnecessarily call attention to the development.*

*(ii) Color-Color shall be found in the project's surrounding landscape setting. Colors shall be chosen and repeated as needed to provide unity to the whole design.*

- (iii) *Texture-Textures borrowed from the landscape setting shall be emphasized in the design of structures. Landscape textures are generally rough, irregular, and complex rather than smooth, regular, and uniform.*
- (iv) *Design-Design solutions shall be compatible with the natural scenic quality of the Gorge. Building materials shall be natural or natural appearing. Building materials such as concrete, steel, aluminum, or plastic shall use form, line color and texture to harmonize with the natural environment. Design shall balance all design elements into a harmonious whole, using repetition of elements and blending of elements as necessary.*

Commission Rule 350-81-020(48) defines *developed road prism* is defined as:

*The area of the ground associated with a particular road and containing the road surface, ditch, shoulder, retaining walls, or other developed features. Does not include the natural appearing portions of cut and fill slopes.*

The applicable scenic standard is *visually subordinate*. The proposed improvements are for an already established road, and no new structures are proposed. The project purpose is to remove known areas of loose, unstable rock. Rock scaling will not alter the overall slope structural appearance, affect slope pitch, height, or aspect, or realign any structural elements of SR-14. The weathering agent Permeon will be applied to all newly-exposed rock faces to reduce visibility and reflectivity, and blend with adjacent natural rock faces. The Permeon treatment will help the newly exposed rock blend in the existing weathered rock.

15. Commission Rule 350-81-530(3)(e) states:

*Right-of-way vegetation shall be managed to minimize visual impacts of clearing and other vegetation removal as seen from key viewing areas. Roadside vegetation management (vista clearing, planting, etc.) should enhance views from the highway.*

The proposed improvements are for an already established road. A condition of approval requires all exposed soils to be reseeded with grasses and forbs from the *Recommend Seed Mixes for East Side Environments* and that disturbed areas be revegetated immediately upon completing the project (or as soon as possible thereafter if the project is completed during the winter months) with at least 80 percent vegetative coverage within 1 year. This is a list of seed mixes available locally that applicants can use to identify the appropriate seeds and grasses for drier eastern gorge climates. Reseeding will offset and visual impact from the exposed earth.

16. Commission Rule 350-81-530(3)(f) states:

*Screening from key viewing areas shall be encouraged for existing and required for new road maintenance, warehouse, and stockpile areas.*

The applicant does not propose any new road maintenance, warehouse or stockpile areas.

#### CONCLUSION:

With conditions of approval as discussed above, the proposed development is consistent with the rules in Commission Rule 350-81-530 that protect scenic resources in the National Scenic Area.

#### C. Cultural Resources

1. Commission Rule 350-81-550(2) states that the procedures and rules in 350-81-540 shall be used to review all proposed developments and land uses other than those on all federal lands, federally assisted projects, and forest practices. The proposal is in an SMA, but because it is not on federal lands, the rules of Commission Rule 350-81-540 apply.
2. Except as specified in Commission Rule 350-81-540(1)(c)(A)(iii), new development requires a reconnaissance survey. Commission Rule 350-81-540(3) requires that, if cultural resources are discovered, an evaluation of the significance shall be conducted. Commission Rule 350-81-540(3)(d)(C) states that if it is determined that the cultural resources are significant, the effects of the proposed use shall be assessed. Commission Rule 350-81-540(5)(a) requires mitigation plans when proposed uses would have an adverse effect on significant cultural resources. Mitigation plans shall reduce any adverse effect to no effect or no adverse effect.
3. Chris Donnermeyer, Heritage Resource Program Manager for the U.S. Forest Service Columbia River Gorge National Scenic Area, reviewed the land use application and determined in a Cultural Resources Survey Determination, dated March 6, 2020, that pursuant to Commission Rule 350-81-540(1)(c)(A)(iii) a Cultural Resource Reconnaissance Survey is not required because the proposed use would occur on a site that has been determined to be located within a low probability zone, is not within 100 feet of a high probability zone, and does not occur within 500 feet of a known archaeological site.
4. Commission Rule 350-81-540(1)(c)(B) describes when a historic survey is required. In his March 6, 2020 survey determination letter, Mr. Donnermeyer also concluded that a historic survey is not required because the development would not alter the exterior architectural appearance of significant buildings or structures that are 50 years old or older, would not alter the exterior architectural appearance of significant buildings and structures that are 50 years old or older, and would not compromise other historic features in the surrounding area that are important in defining the historic or architectural character of significant historic structures. Given this information, a historic survey was not required, consistent with Commission Rule 350-81-540(1)(c)(B).
5. Commission Rule 350-81-540(2)(c)(B)(i) states the cultural resource protection process may conclude when the following conditions exist:

*The proposed use does not require a reconnaissance or historic survey, no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within 21 calendar days of the date that a notice was mailed.*

The project notice was mailed on March 3, 2020, and the comment period ended March 24, 2020. As explained above, the proposal did not require a reconnaissance survey or historic survey and no comments were received regarding cultural resource concerns. Pursuant to Commission Rule 350-81-540(2)(c)(B)(i), the cultural resource protection process may conclude.

6. Commission Rule 350-81-540(6) protects cultural resources discovered during construction. It requires that if cultural resources are discovered after construction begins, all construction activities within 100 feet of the discovered cultural resource shall cease; further disturbance is prohibited, and the Gorge Commission shall be notified within 24 hours of the discovery. A condition of approval implementing this requirement is included in this decision.

7. Commission Rule 350-81-540(7) contains provisions addressing discovery of human remains during construction. A condition of approval is included in this decision requiring adherence to these measures if human remains are discovered.

**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.

**C. NATURAL RESOURCES**

1. Commission Rule 350-81-600 protects natural resources in SMAs. Commission Rule 350-81-600(1) states:

*All new developments and uses, as described in a site plan prepared by the applicant, shall be evaluated using the following guidelines to ensure that natural resources are protected from adverse effects. Cumulative effects analysis is not required for expedited review uses or developments. Comments from state and federal agencies shall be carefully considered. (Site plans are described in 350-81-032).*

WSDOT submitted a site plan consistent with Commission Rule 350-81-032. The plans identify the location of all proposed development along the full extent of the project area. Notice of this application was mailed directly to multiple local, state, and federal agencies including U.S. Forest Service, WDFW, and the Natural Heritage Program. No comments were received from public agencies related specifically to natural resource protections rules.

2. Commission Rule 350-81-600(2) protects water resources in SMAs. A minimum 200-foot buffer is required for ponds and lakes, perennial or fish bearing streams. A 50-foot buffer for intermittent (including ephemeral), non-fish bearing streams. As currently constructed, all the ephemeral streams and waterways have culverts crossing under the road. No buffer zones are proposed to be reconfigured by this project because pursuant to Commission Rule 350-81-600(2)(a)(B)(iii), the project is a road improvements project exempt from the wetlands and riparian rules for SMAs. (See below).
3. Commission Rule 350-81-600(2)(a) requires that all water resources are protected by establishing undisturbed buffers. Commission Rule 350-81-600(2)(a)(B)(iii) states:

*(iii) Maintenance, repair, reconstruction and realignment of roads and railroads within their rights-of-way shall be exempted from the wetlands and riparian guidelines upon demonstration of all of the following:*

- (I) The wetland within the right-of-way is a drainage ditch not part of a larger wetland outside of the right-of-way.*
- (II) The wetland is not critical habitat.*
- (III) Proposed activities within the right-of-way would not adversely affect a wetland adjacent to the right-of-way.*

According to Commission Rule 350-81-600(2)(a)(B)(iii), in SMAs, maintenance, repair, reconstruction and realignment of roads and railroads within their rights-of-way shall be exempted from the wetlands and riparian rules if they meet the applicable rules. Pursuant to Commission Rule 350-81-600(2)(a)(B)(iii), the proposal is exempted from the water resource rules.

4. 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). Commission Rule 350-80-600(3)(a). It states:

*Wildlife and Plants*

*(a) Protection of sensitive wildlife/plant areas and sites shall begin when proposed new developments or uses are within 1000 ft of a sensitive wildlife/plant site and/or area...*

The natural resource inventory indicates that the following sensitive wildlife/plant areas and sites are within 1000 feet of the proposal: northern spotted owl habitat, western gray squirrel habitat, Oregon white oak woodlands, the Columbia River, Columbia River basalt cliffs, talus slopes along the Columbia River, few-flowered collinsia, smooth desert parsley, common bluecup, and Suksdorf's desert-parsley.

5. Commission Rule 350-81-600(3)(b) states:

*The Executive Director shall submit site plans (of uses that are proposed within 1,000 feet of a sensitive wildlife and/or plant area or site) for review to the Forest Service and the appropriate state agencies (Oregon Department of Fish and Wildlife or the Washington Department of Fish and Wildlife for wildlife issues and by the Oregon or Washington Natural Heritage Program for plant issues).*

Pursuant to this notice requirement, copies of the site plan were provided to U.S. Forest Service and Washington Department of Fish and Wildlife and Washington Natural Heritage Program on March 3, 2020.

6. Commission Rule 350-81-600(3)(c) states:

*The Forest Service wildlife biologists and/or botanists, in consultation with the appropriate state biologists, shall review the site plan and their field survey records. They shall:*

- (A) Identify/verify the precise location of the wildlife and/or plant area or site,*
- (B) Determine if a field survey will be required,*
- (C) Determine, based on the biology and habitat requirements of the affected wildlife/plant species, if the proposed use would compromise the integrity and function of or result in adverse affects (including cumulative effects) to the wildlife or plant area or site. This would include considering the time of year when wildlife or plant species are sensitive to disturbance, such as nesting, rearing seasons, or flowering season, and*
- (D) Delineate the undisturbed 200 ft buffer on the site plan for sensitive plants and/or the appropriate buffer for sensitive wildlife areas or sites, including nesting, roosting and perching sites.*
  - (i) Buffer zones can be reconfigured if a project applicant demonstrates all of the following:*
    - (1) the integrity and function of the buffer zones is maintained,*
    - (2) the total buffer area on the development proposal is not decreased,*
    - (3) the width reduction shall not occur within another buffer, and*
    - (4) the buffer zone width is not reduced more than 50% at any particular location. Such features as intervening topography, vegetation, man*

*made features, natural plant or wildlife habitat boundaries, and flood plain characteristics could be considered.*

- (ii) Requests to reduce buffer zones shall be considered if an appropriate professional (botanist, plant ecologist, wildlife biologist, or hydrologist), hired by the project applicant,
  - (1) identifies the precise location of the sensitive wildlife/plant or water resource,*
  - (2) describes the biology of the sensitive wildlife/plant or hydrologic condition of the water resource, and*
  - (3) demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected wildlife/plant and their surrounding habitat that is vital to their long-term survival or water resource and its long term function.**
- (iii) The Executive Director shall submit all requests to re-configure sensitive wildlife/plant or water resource buffers to the Forest Service and the appropriate state agencies for review. All written comments shall be included in the record of application and based on the comments from the state and federal agencies, the Executive Director will make a final decision on whether the reduced buffer zone is justified. If the final decision contradicts the comments 226 submitted by the federal and state agencies, the Executive Director shall justify how the opposing conclusion was reached*

The applicant provided a memorandum from Angie Haffie, WSDOT Biology Program Manager, dated July 29, 2019, which determined that the proposal would have no effect to potentially present sensitive wildlife and plant areas in the project area. The memorandum was provided to U.S. Forest Service for review along with the site plans and application materials. U.S. Forest Service concluded the proposal would not harm the function or compromise the integrity of any sensitive wildlife or plant resources.

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

- (d) The Executive Director, in consultation with the State and federal wildlife biologists and/or botanists, shall use the following criteria in reviewing and evaluating the site plan to ensure that the proposed developments or uses do not compromise the integrity and function of or result in adverse affects to the wildlife or plant area or site:
  - (A) Published guidelines regarding the protection and management of the affected wildlife/plant species. Examples include: the Oregon Department of Forestry has prepared technical papers that include management guidelines for osprey and great blue heron; the Washington Department of Fish and Wildlife has prepared similar guidelines for a variety of species, including the western pond turtle, the peregrine falcon, and the Larch Mountain salamander.*
  - (B) Physical characteristics of the subject parcel and vicinity, including topography and vegetation.*
  - (C) Historic, current, and proposed uses in the vicinity of the sensitive wildlife/plant area or site.*
  - (D) Existing condition of the wildlife/plant area or site and the surrounding habitat and the useful life of the area or site.*
  - (E) 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.*

- (F) The site plan is consistent with the "Oregon Guidelines for Timing of In Water Work to Protect Fish and Wildlife Resources" (Oregon Department of Fish and Wildlife 2000) and the Washington guidelines when they become finalized.*
- (G) The site plan activities coincide with periods when fish and wildlife are least sensitive to disturbance. These would include, among others, nesting and brooding periods (from nest building to fledgling of young) and those periods specified.*
- (H) The site plan illustrates that new developments and uses, including bridges, culverts, and utility corridors, shall not interfere with fish and wildlife passage.*
- (I) Maintain, protect, and enhance the integrity and function of Priority Habitats (such as old growth forests, talus slopes, and oak woodlands) as listed on the following Priority Habitats Table. This includes maintaining structural, species, and age diversity, maintaining connectivity within and between plant communities, and ensuring that cumulative impacts are considered in documenting integrity and function.*

Staff discussed the project with U.S. Forest Service staff and determined the proposal would not compromise the integrity of the area as a wildlife site. According to the applicant, no trees will be removed. A condition of approval requires all disturbed areas to be reseeded with grasses and forbs from the *Recommend Seed Mixes for East Side Environments* and that disturbed areas be revegetated immediately upon completing the project (or as soon as possible thereafter if the project is completed during the winter months) with at least 80 percent vegetative coverage within 1 year.

8. Commission Rule 350-81-600(3)(e) states:

*(e) The wildlife/plant protection process may terminate if the Executive Director, in consultation with the Forest Service and state wildlife agency or Heritage program, determines*

- (1) the sensitive wildlife area or site is not active, or*
- (2) the proposed use is not within the buffer zones and would not compromise the integrity of the wildlife/plant area or site, and*
- (3) the proposed use is within the buffer and could be easily moved out of the buffer by simply modifying the project proposal (site plan modifications). If the project applicant accepts these recommendations, the Executive Director shall incorporate them into the final decision and the wildlife/plant protection process may conclude.*

Staff discussed the project with U.S. Forest Service staff and determined the proposal would not compromise the integrity of the area as a wildlife or sensitive plant site. With conditions of approval requiring the reseeded of exposed soils with native grasses, the proposal is consistent Commission Rule 350-81-600(3)(e). The wildlife/plant protection process may terminate, pursuant to this rule.

9. Commission Rule 350-81-600(3)(f) states:

*(f) If the above measures fail to eliminate the adverse affects, the proposed project shall be prohibited, unless the project applicant can meet the Practicable Alternative Test and prepare a mitigation plan to offset the adverse effects by deliberate restoration and enhancement.*

No adverse effects were identified. This rule does not apply.

10. Commission Rule 350-81-600(3)(g) states:

*The Executive Director shall submit a copy of all field surveys (if completed) and mitigation plans to the Forest Service and appropriate state agencies. The Executive Director shall include all comments in the record of application and address any written comments submitted by the state and federal wildlife agency/heritage programs in the final decision. Based on the comments from the state and federal wildlife agency/heritage program, the Executive Director shall make a final decision on whether the proposed use would be consistent with the wildlife/plant policies and guidelines. If the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the Executive Director shall justify how the opposing conclusion was reached.*

Staff provided copies of the site plan and application materials, including proposed mitigation to the U.S. Forest Service and Washington Department of Fish and Wildlife, and Washington Natural Heritage Program on March 3, 2020. The application includes maps and narrative descriptions of the proposed activity and methods of work. Staff discussed the projects with U.S. Forest Service staff and Washington State wildlife biologists and botanists, who agreed that the proposal would not compromise the integrity of the area as a wildlife or sensitive plant site. With conditions of approval requiring reseeded of exposed soils with native grasses and forbs, the proposal is consistent Commission Rule 350-81-600(3)(g).

11. Commission Rule 350-81-600(3)(i) states:

*(i) Proposed uses and developments within 1,000 feet of sensitive wildlife areas and sites or within 1,000 feet of rare plants shall be evaluated for cumulative effects to natural resources and cumulative effects that are adverse shall be prohibited.*

The proposal will have no effect to natural resources in the within 1,000 feet of the project site. Thus, there will be no cumulative effects.

12. Commission Rule 350-81-600(4) protects soil productivity. It states:

*Soil Productivity*

*(a) Soil productivity shall be protected using the following guidelines:*

*(A) A description or illustration showing the mitigation measures to control soil erosion and stream sedimentation.*

*(B) New developments and land uses shall control all soil movement within the area shown on the site plan.*

*(C) The soil area disturbed by new development or land uses, except for new cultivation, shall not exceed 15 percent of the project area.*

*(D) Within 1 year of project completion, 80 percent of the project area with surface disturbance shall be established with effective native ground cover species or other soil-stabilizing methods to prevent soil erosion until the area has 80 percent vegetative cover.*

To ensure compliance with the above standards, a condition of approval is included with the Director Decision requiring that all disturbed areas be revegetated immediately upon completing

the project (or as soon as possible thereafter if the project is completed during the winter months) with at least 80 percent vegetative coverage within 1 year.

CONCLUSION:

With the conditions of approval discussed above, the proposed development is consistent with the rules in Commission Rule 350-81, Sections 560 through 600, that protect natural resources in the National Scenic Area.

E. 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 parcels, 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.

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 March 3, 2020. The notice included a comment period of 21 days that ended on March 24, 2020.

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 parcels do 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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