CASE FILE: C21-0002

PROPOSAL: The Columbia River Gorge Commission has received an application for slope stabilization on three tall rock and talus slopes and associated safety improvements along Washington State Route 14 (SR-14) near Chamberlain Lake Rest Area. The project includes rock scaling, bolting and tree removal on three near-vertical basalt slopes exceeding 90 ft in height along 3,750 linear feet, and the construction of 1,600 ft of rockfall ditch and 4 ft-tall concrete barriers on two slopes.

APPLICANT: Washington Department of Transportation (WSDOT)

LANDOWNERS: WSDOT

LOCATION: The subject property is 34 acres and located along SR-14 between MP 73.18 and 73.89, 1.5 miles west of Lyle, Washington, in Section 32, Township 3 North, Range 12 East, W.M., Klickitat County, Washington. Tax Lot Number 03-12-3200-0006/00.

LAND USE DESIGNATION: The subject parcel is in the General Management Area and designated Small-Scale Agriculture, with a 40-acre minimum parcel size. Small areas at the east and west ends of the parcel are designated GMA Public Recreation and SMA Agriculture.

DECISION: Based upon the following findings of fact, the land use application by WSDOT to conduct slope stabilizations and to construct rockfall ditches along a segment of 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 C21-0002, 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. All bolt plugs shall be treated with Permeon rock stain until the plugs blend with the adjacent naturally occurring rock face.

6. The concrete barriers shall be treated with Permeon rock stain to blend them with the naturally occurring rock face. The impact attenuators at the ends of the concrete barriers shall be treated with Natina steel stain to blend them with the naturally occurring rock face.

7. Any tree stumps remaining on site following development shall be cut as close to the ground as is practicable, not to exceed 18 inches tall.

8. Other than trees identified for removal and other vegetation that must be removed for site development purposes, all existing vegetation on site shall be retained to ensure visual subordinance and compliance with Commission Rule 350-81-520(3)(c)(B)(iii).

9. 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.

10. Direct impacts to individual plants of Penstemon barrettiae that are firmly rooted in place shall be avoided. If any individual plants of Penstemon barrettiae are identified on site, seeds shall be collected and donated to either the Berry Botanical Garden in Portland, Oregon, or the University of Washington’s Miller Seed Vault in Seattle, Washington.

11. 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.

12. 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 20 day of May 2021 at White Salmon, Washington.

[Signature]
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 20th day of May 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 19th day of June 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
Sally Sauter

Attachments:
- Staff Report for C21-0002
- Approved site plan
- Approved grading plan (map, typical elevation, narrative)
- Recommended Seed Mixes for East Side Environments handout
**KEY**

- EXISTING ROW BOUNDARY
- DITCH EXCAVATION LIMITS
- TYPE F CONCRETE BARRIER - 48"
- POTENTIAL EFFECT BOUNDARY SLOPES: #2125, #3337, #3338
- POTENTIAL ACCESS REQUIREMENT TO ASSESS SAFETY

**SITE MAP**

SR 14 0.7 TO 0.2 MILES W OF CHAMBERLAIN LAKE REST AREA - UNSTABLE SLOPE

NO PROPOSED ROADS, DRIVEWAYS OR TRAILS

- **SLOPE #2125**
- **SLOPE #3337**
- **SLOPE #3338**
- **SR-14**
- DITCH DIMENSIONS
  - W: ~20' D: 4' L: 789'
- BARRIER LENGTH L: 968'
- MP 73.18 TO 73.89
  - W: 32'
- DITCH DIMENSIONS
  - W: ~15' D: 4' L: 800'
- BARRIER LENGTH L: 1034'

SCALE IN FEET

0 250 500
Slope will be 1:1 per Geotech Recommendation

<table>
<thead>
<tr>
<th>Rock Slope</th>
<th>H (ft)</th>
<th>W (ft)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Near Vertical</td>
<td>20 – 30</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>30 – 60</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td>&gt; 60</td>
<td>20</td>
</tr>
</tbody>
</table>
Narrative Description

(i) The purpose of the grading activity will be to construct two rock-fall catchment ditches. This will collect rock falling from the slope, and prevent it from entering the roadway, thus improving the safety of roadway users.

(ii) Both ditches will be approximately 800 feet long, 20 feet wide, and excavated to a depth of 4 feet. The approximate total excavation volume will be: $2 \times 800 \text{ lf} \times 20 \text{ lf} \times 4 \text{ lf} = 128,000 \text{ cf} = 4,741 \text{ cy}.$

(iii) Both catchment ditches will be excavated to a depth of 4 feet. The side adjacent to the roadway will have a 1:1 side slope from the existing grade to the bottom of the ditch. The open ends of the catchment ditches will ramp down at a 6:1 slope to allow maintenance access.

(iv) The rock-fall catchment ditches will be constructed to the specifications of WSDOT Design Manual 1239.04(1), and the recommendations of the Geotechnical Report. The exposed surface is expected to consist of highly fractured rock and will not require additional compaction for stability. Due to the free-draining nature of the material and the absence of any signs of flowing water in the ditch location, no additional drainage measures are required.

(v) No plant materials are planned to be used. Based on our geotechnical investigation, the material exposed by the excavation will consist of gravel with cobbles and boulders, and will not require planting to stabilize. There is very little vegetation in the proposed excavation area as it currently exists, so the total amount of vegetation will be roughly unchanged.

(vi) The material exposed by excavation consists of gravel with cobbles and boulders, and is not expected to experience any significant erosion.
**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

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

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

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

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 tridentata) 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 brome. 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.nwcc.wa.gov/WWHAM/WWHAM_suppliers.htm

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.
- Allen Schnetzky, Weed Supervisor, Wallowa County 541-426-3332.
CASE FILE: C21-0002

PROPOSAL: The Columbia River Gorge Commission has received an application for slope stabilization on three tall rock and talus slopes and associated safety improvements along Washington State Route 14 (SR-14) near Chamberlain Lake Rest Area. The project includes rock scaling, bolting and tree removal on three near-vertical basalt slopes exceeding 90 ft in height along 3,750 linear feet, and the construction of 1,600 ft of rockfall ditch and 4 ft-tall concrete barriers on two slopes.

APPLICANT: Washington Department of Transportation (WSDOT)

LANDOWNER: WSDOT

LOCATION: The subject property is 34 acres and located along SR-14 between MP 73.18 and 73.89, 1.5 miles west of Lyle, Washington, in Section 32, Township 3 North, Range 12 East, W.M., Klickitat County, Washington. Tax Lot Number 03-12-3200-0006/00.

LAND USE DESIGNATION: The subject parcel is in the General Management Area and designated Small-Scale Agriculture, with a 40-acre minimum parcel size. Small areas at the east and west ends of the parcel are designated GMA Public Recreation and SMA 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 Jasa Holt, Data Specialist for the Washington Natural Heritage Program, Amber Johnson, Wildlife Biologist for the Washington Department of Natural Resources, Steve McCoy, Attorney for Friends of the Columbia River Gorge, and Sally Sauter.

A. LAND USE

1. The Washington State Department of Transportation (WSDOT) requests approval to conduct slope stabilization on three tall rock and talus slopes and associated safety improvements along Washington State Route 14 (SR-14) near the Chamberlain Lake Rest Area. The project includes rock scaling, bolting and tree removal on three near-vertical basalt slopes, and the construction of a rockfall ditch and 48-inch-tall concrete barriers under two of those slopes.

The project will involve intensive, strategic rock-scaling, bolting, and targeted tree removal on near-vertical basalt slopes exceeding 90 feet in height along 3,750 linear feet of SR-14, focused on three distinct slopes on the parcel. These slopes are identified in the project application materials as slope 2125, 3337, and 3338, which are located at the western, central, and eastern project limits, respectively. The project also involves constructing 1,600 feet of Stage 3 rockfall ditch with a 48-inch-tall concrete barrier and galvanized steel impact attenuators to provide adequate rockfall catchment at the base of the cliffs. The rockfall ditch and concrete barrier will be installed along identified slopes 2125 and 3338, each approximately 800 feet long; the central project limits do not include rockfall catchment or installation of a concrete barrier. The proposed project does not include any new metal rockfall fencing, blasting, shotcrete, illumination, expanded areas of pavement, or stormwater facilities.

2. Commission Rule 350-81-190(1)(l) allows as a review use on lands designated GMA Small-Scale Agriculture, the construction, reconstruction, or modifications of roads not in conjunction with agriculture, subject to review for compliance with the scenic, cultural, natural, and recreation resource guidelines (350-81-520 through 350-81-620).

The road, SR-14, already exists, and the work will all be completed within WSDOT's right-of-way. The road is not used solely in conjunction with agriculture. This project is considered a modification to an existing road. The project will take place outside of the areas of the parcel designated as SMA Agriculture and GMA Public Recreation.

CONCLUSION:

The proposed development is a review use on lands designated GMA Small-Scale 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


2. 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.

   To mitigate for alterations to the vegetative cover and natural characteristics of the site as a result of impacts from equipment staging and foot traffic during development, and consistent with this rule, a condition of approval is included requiring all areas outside of the proposed development
area that are disturbed during construction activities to be reseeded with native vegetation immediately upon completion the project with at least 80 percent vegetative coverage within 1 year. Staff is providing the handout List of Recommended Seed Mixes for East Side Environments as an attachment to the Director’s Decision, which has options of seed mixes available locally for drier eastern gorge climates. With conditions of approval requiring disturbed areas are revegetated immediately, the development is consistent with this rule.

3. Commission Rule 350-81-520(1)(e) states that “the determination of compatibility with the landscape setting shall be based on information submitted in the site plan.” Compatibility with the landscape setting guidelines is discussed in Findings B.20 and B.21.

4. Commission Rule 350-81-520(2) contains guidelines for development visible from key viewing areas. Commission Rule 350-81-520(2)(a) states that these guidelines apply to proposed developments on sites topographically visible from key viewing areas. The applicants noted that the proposed development would be topographically visible from the Historic Columbia River Highway, Interstate 84, the Columbia River, and SR-14. Staff determined through analysis in Google Earth that the development may also be topographically visible in the middleground from the Rowena Plateau and Tom McCall Viewpoint.

5. Commission Rule 350-81-520(2)(b) requires all development to be visually subordinate to its setting as seen from key viewing areas. 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 with their application materials, dated January 28, 2021, that detailed the work and proposed mitigation to achieve visual subordinance. According to the application materials, the project can be broken down into three distinct pieces: scaling and bolting; vegetation removal; and construction of the rockfall ditch and installation of the concrete barrier.

Scaling and bolting will along all three identified slopes, all generally facing south-south-east. Scaling will be focused on slopes 2125 and 3337. The intent of the scaling is to remove known areas of loose, unstable rock. The intent of bolting is to stabilize larger blocks of fractured rock that cannot be removed by scaling, including blocks that occur above the primary scaling areas. Scaling and bolting will not alter the overall slope structural appearance, affect slope pitch, height, or aspect, or realign any structural elements of SR-14. The primary visual impacts to the rock face, as visible from KVAs, will be the temporary appearance of unweathered rock following scaling activities and the appearance of grout plugs where bolting occurs. The bolts themselves will be recessed completely into the rock and covered by the grout plugs. The applicants propose to apply the rock weathering agent Permeon to newly exposed rock faces and grout plugs to reduce visibility and reflectivity, and to blend with adjacent, natural rock daces. The Permeon treatment will help the newly exposed rock and the grout plugs blend with the existing weathered rock. Permeon can be made in multiple colors form a light tan to nearly black and can be mixed to blend with the site where it is applied.

Vegetation removal is intended to reduce the potential for future rockfall by preventing vegetation from establishing in existing fissures in the rock and expanding them. The larger clumps of established trees and understory vegetation in the project area between slopes 3337 and 3338 will be retained. Vegetation removal will be minimized to those trees and shrubs.
identified in the application by WSDOT’s geotechnical engineers, and vegetation that is necessary to remove for site development or safety purposes. On April 14, 2021, in a phone call with staff, the applicant stated that WSDOT regulations require the removed trees to be flush cut to a height no greater than 18 inches. The applicant submitted a revised Visual Quality Assessment on May 11, 2021, stating that “[t]rees will be ‘flush cut’ with the ground with stumps not extending above 18-inches from the surface.” A condition of approval will require that any tree stumps are cut as low to the ground as is practicable, not to exceed 18 inches tall, to prevent an undulating battlement effect on the top of the rock face. As conditioned, there is no expected visual impact from tree removal, as the visually dominant feature of this corridor is the rockface itself, not the limited vegetation growing on the rockface.

Other, smaller vegetation may be removed or impacted due to secondary development activities such as foot traffic or equipment staging, which would affect the visual condition of the site. A condition of approval has been applied requiring the applicant to reseed these areas with native vegetation immediately upon completion the project, with at least 80 percent vegetative coverage within 1 year. With this condition applied, the staging and trafficked areas will be visually subordinate.

The rockfall ditch and concrete barrier will be constructed in two 800-foot segments below slope 2125 and 3338, leaving a gap at slope 3337 and for the area between slope 3337 and 3338. These areas are already maintained as rockfall areas, but are not developed and cannot safely contain rockfall from higher elevations. The rockfall ditch will be constructed below grade, and will only be visible from SR-14. The ditch will be approximately 20 feet wide below slope 2125 and approximately 15 feet wide below slope 3338, and will be 4 feet deep. The bottom of the ditch will be filled with gravel to absorb energy from falling rock, preventing fallback of rocks from bouncing out. As the ditch is below grade and largely behind the concrete barrier, the ditch itself will not be a visually dominant feature as seen from key viewing areas, including SR-14.

The 48-inch-tall concrete barrier and galvanized impact attenuators will be a permanent fixture to the landscape, visible from all key viewing areas listed in Finding B.5. The proposed height is more than the 36-inch standard for concrete barriers, but is necessary in some of the project area where the rockfall ditch cannot be made wide enough to ensure public safety. While the 36-inch barriers are visually preferable to the 48-inch barriers, and while the 36-inch barriers could be used safely in several sections of the catchment area, the undulating pattern between the two barrier heights would be more visually apparent than a single continuous line across the top of the barrier, which better emulates the horizontal line of the natural rock features. As the 48-inch barriers are necessary for public safety in some sections, all of the barriers will be 48-inches tall to achieve visual subordinance. Additionally, four impact attenuators will be attached to the concrete barrier, one at each barrier end. The physical design of the impact attenuators cannot be altered, in order to remain compliant with current highway design safety standards. The initial application materials stated that both the barriers and the impact attenuators will be treated with a dark brown Natina weathering agent to blend the structures with the background rock colors. Following a conversation with WSDOT staff on April 14, 2021 regarding the use of Natina on the concrete barriers, the applicant submitted a revised Visual Quality Assessment on May 11, 2021 stating that Permeon would be applied to the barriers, and Natina applied only to the impact attenuators. A condition of approval shall require the use of Permeon on the concrete barriers and Natina on the impact attenuators, ensuring that the barriers and impact attenuators will be visually subordinate to its setting as seen from key viewing areas.

The revised Visual Quality Assessment stated that the Permeon for the concrete barriers may be substituted with “an approved dark grey-brown concrete stain.” Use of a concrete stain for the barriers is not permitted until a color is specified and reviewed by the Gorge Commission. A condition of approval is included requiring that any changes to the approved development to be reviewed and approved by the Executive Director before any changes are implemented.
6. Commission Rule 350-81-520(2)(c) requires analysis of cumulative impacts to scenic resource from proposed development. 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 Technical 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 nearest WSDOT project is the slope stabilization project approved by the Gorge Commission in C20-0005, 1.7 miles east of Bingen, WA, at the eastern edge of the White Salmon/Bingen Urban Area. This project is approximately 4.3 miles west of the proposed development. Another project occurring within the White Salmon/Bingen Urban Area is not subject to the scenic resource protection guidelines. Other on-going and established practices within two miles of the proposed development include standard maintenance operations associated with local and state roads, utilities, and the railroad, land acquisitions and conversion by other entities, forest practices, and US Forest Service trail maintenance and construction.

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 slope stabilization projects also meet the visually subordinate design standard, and; do not alter the slope’s overall structural appearance; do not affect slope pitch, height, or aspect; do not realign any structural elements of SR 14; retain existing vegetation except those plants that must be removed to prevent future rockfall and as necessary for site development; revegetate areas impacted by foot traffic, equipment staging, and other secondary development impacts; use Permeon to blend the newly exposed rock and concrete barrier with the existing weathered rock, and; use dark brown Natina to weather the galvanized steel impact attenuators; then adverse scenic effects, including cumulative effects, will be avoided.

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

   The extent and type of conditions applied to a proposed development to achieve visual subordinance 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 development will be visible from the following six key viewing areas at the following distances:

<table>
<thead>
<tr>
<th>Key Viewing Area (KVA)</th>
<th>Distance Zone</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Foreground</td>
</tr>
<tr>
<td></td>
<td>0 - 1/4 Mile</td>
</tr>
<tr>
<td>Washington State Route 14</td>
<td>X</td>
</tr>
<tr>
<td>Columbia River</td>
<td>X</td>
</tr>
<tr>
<td>Interstate 84</td>
<td>X</td>
</tr>
<tr>
<td>Historic Columbia River Highway</td>
<td>X</td>
</tr>
<tr>
<td>Rowena Plateau</td>
<td>X</td>
</tr>
<tr>
<td>Tom McCall Viewpoint</td>
<td>X</td>
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</table>

The proposed development takes place from milepost 73.18 to 73.89 along SR-14, 3,750 linear feet. The project is split among three identified slopes, leaving a gap of approximately 750 feet where no development will occur in the central-eastern section of the project site. Vegetation on the north side of SR-14 where development will occur will not provide screening. Vegetation on the south side of SR-14 provides only limited screening of the development as seen from the Columbia River. Using GIS inventories and conducting site visits, staff found the site is intermittently visible from SR-14 for approximately 7 miles, the Columbia River for approximately 11 miles, I-84 for approximately 11 miles, and the Historic Columbia River Highway for approximately 13 miles. The site is also potentially visible from the Rowena Plateau from between 2 and 3 miles away along the length of the subject parcel, and the Tom McCall Viewpoint from between 2.5 and 3 miles away along the length of the subject parcel.

8. 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.

There are no alternatives to siting the development on the subject property – rockfall work must occur on the rockface, and the rockfall catchment area must be directly below the rockface. A condition of approval will require that existing vegetation on the subject property on the south side of SR-14 be retained, and that vegetation on the north side of SR-14 be retained to the maximum extent practicable, except for vegetation identified for removal from the rockface itself and vegetation that must be removed for site development purposes. Conditions of approval will require the use of Permeon for the rock face and the concrete barrier, and Natina for the impact attenuators, to ensure that all surfaces and structures match the color of the naturally-weathered rock. The decision to use 48-inch-tall concrete barriers as opposed to the standard 36-inch barriers has the potential to create a larger visual impact, but as the 48-inch barriers are required to ensure public safety in some areas, the consistent horizontal line from the taller barriers is visually preferable to an inconsistent, undulating line.
Site conditions preclude requiring new landscaping as an effective tool to achieve visual subordinance, as no areas on the north side of SR-14 can safely accommodate new vegetation with the proposed development, and all areas on the south side of SR-14 that could be planted already have existing vegetation. With these conditions of approval, the proposed development will be visually subordinate to its setting as seen from key viewing areas. The conditions of approval are proportionate to the potential visual impacts of the proposed development.

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

   New development shall be sited to achieve visual subordinance 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 proposed development takes place in the right of way of an existing road and is considered a modification to that road. This guideline does not apply. Other conditions of approval ensure that the development will be visually subordinate.

10. 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 subordinance from Key Viewing Areas.

The proposed development is occurring on and below a naturally occurring rock face. There are no alternatives to siting the proposed development that would better achieve visual subordinance.

11. 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).

All existing vegetation screening the proposed development from key viewing areas is located on the south side of SR-14, and will not be removed. The subject parcel is in the Oak-Pine Woodlands Landscape Setting, subject to review under Commission Rule 350-81-520(3)(c)(B). Findings for the Landscape Settings Design Guidelines are addressed below in Findings B.20 and B.21. According to Commission Rule 350-81-520(3)(c)(B)(iii), in substantially wooded portions of the landscape, existing tree cover screening the proposed development from KVAs shall be retained in compliance with Commission Rule 350-81-520(3)(c)(B)(iii). This requirement is included as a condition of approval.

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

   The following guidelines shall apply to new landscaping used to screen development from key viewing areas:

   (A) New landscaping (including new earth berms) shall be required only when application of all other available guidelines in 350-81-520 is not sufficient to make the development visually subordinate from key viewing areas. Alternate sites shall be considered prior to using new landscaping to achieve visual subordinance. Development shall be sited to avoid the need for new landscaping wherever possible.

   (B) If new landscaping is required to make a proposed development visually subordinate from key viewing areas, existing on-site vegetative screening and
other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any vegetation planted pursuant to this guideline shall be sized to provide sufficient screening to make the development visually subordinate within five years or less from the commencement of construction.

(C) Unless as specified otherwise by provisions in 350-81-520, landscaping shall be installed as soon as practicable, and prior to project completion. Applicants and successors in interest for the subject parcel are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.

(D) The Scenic Resources Implementation Handbook shall include recommended species for each landscape setting consistent with the Landscape Settings Design Guidelines in 350-81-520(3), and minimum recommended sizes of new trees planted (based on average growth rates expected for recommended species)

The applicant did not include a landscaping plan as part of the proposal, and no new screening vegetation is required by the guidelines of this chapter.

13. 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.

A condition of approval shall require that the scaled and bolted areas of the rockface and the concrete barriers are treated with Permeon, and that the impact attenuators are treated with Natina, as referenced in the application materials. These treatments will match the color of the naturally occurring weathered rock, ensuring consistency with this rule.

14. 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.

The proposed development does not include exterior lighting. This rule does not apply.

15. Commission Rule 350-81-520(2)(v) states:

Overpasses, safety and directional signs, and other road and highway facilities may protrude above a skyline visible from a key viewing are only upon a demonstration that:
(A) The facility is necessary for public service, and
(B) The break in the skyline is the minimum necessary to provide the service.

The proposed development only has the potential to break the skyline from SR-14 and the Columbia River. The development site is only visible from the key viewing areas in Oregon either from higher or roughly level elevations, meaning there is no potential for the proposed development to break the skyline as seen from those key viewing areas. From SR-14 and the Columbia River key viewing areas, the concrete barrier and impact attenuators will be below the skyline created by the rock outcropping itself.
To viewers from SR-14, the scaling and bolting work up on the walls will largely take place below the skyline created by a second tier of exposed rock that sits approximately 100 feet above the project site. In some areas, the skyline as visible from SR-14 is created by the rockface where the scaling and bolting work takes place; in such cases, as nothing is being constructed, nothing will protrude above the skyline as a result of this project.

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

Except for water-dependent development and for water-related recreation development, development shall be set back 100 feet from the ordinary high water mark of the Columbia River below Bonneville Dam, and 100 feet from the normal pool elevation of the Columbia River above Bonneville Dam, unless the setback would render a property unbuildable. In such cases, variances to this guideline may be authorized.

All development will occur more than 100 feet from the normal pool elevation of the Columbia River above Bonneville Dam.

17. Commission Rule 350-81-520(2)(aa) requires all proposed structural development involving more than 200 cubic yards of grading on sites visible from KVAs to include a grading plan containing the following elements:

(A) A map of the site, prepared at a scale of 1 inch equals 200 feet (1:2,400) or a scale providing greater detail, with contour intervals of at least 5 feet, including:
   (i) Existing and proposed final grades.
   (ii) Location of all areas to be graded, with cut banks and fill slopes delineated.
   (iii) Estimated dimensions of graded areas.
(B) A narrative description (may be submitted on the grading plan site map and accompanying drawings) of the proposed grading activity, including:
   (i) Its purpose.
   (ii) An estimate of the total volume of material to be moved.
   (iii) The height of all cut banks and fill slopes.
   (iv) Provisions to be used for compactions, drainage, and stabilization of graded areas. (Preparation of this information by a licensed engineer or engineering geologist is recommended.)
   (v) A description of all plant materials used to revegetate exposed slopes and banks, including the species, number, size, and location of plants, and a description of irrigation provisions or other measures necessary to ensure the survival of plantings.
   (vi) A description of any other interim or permanent erosion control measures to be used.

During review, staff determined that a grading plan would be necessary to meet this standard, as the concrete barrier and rockfall ditch are considered structural development. The applicant submitted a geotechnical report, map of proposed grading areas, a diagram showing typical elevations of the completed ditch and concrete barrier, and an accompanying narrative that together contained the necessary elements to satisfy this rule.

18. The Landscape Settings Map for 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.
19. 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 concrete barriers are the tallest structural development proposed. At four feet tall, they will be well below the tree canopy of the surrounding oak and pine trees.

20. 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 subordinance 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.

No landscaping is required by the guidelines of this chapter. No other location on the subject property would have afforded the applicants more topographic screening. The property is substantially wooded. The limited existing tree cover that screens the proposed development from key viewing areas is on the south side of SR-14 and will not be removed. A condition of approval shall require that these existing trees be retained.

21. Commission Rule 350-81-520(4) states that “All review uses within Scenic Travel Corridors shall comply with the following applicable guidelines.” Commission Rule 350-81-020(134) defines scenic travel corridor as:

   Those portions of Interstate 84, the Historic Columbia River Highway, Oregon Highway 35, and Washington State Routes 14, 141, and 142 located in the Scenic Area and specifically designated to be managed as scenic and recreational travel routes.

SR-14 is identified as a Scenic Travel Corridor. The proposed development will be reviewed under this rule. There are no guidelines under Commission Rule 350-81-520(4) that apply to the proposed development.
CONCLUSION:

With conditions of approval requiring reseeding areas that are disturbed by secondary development activities, requiring the use of Permeon and Natina weathering agents to reduce the visibility of the exposed rock, installed bolts, concrete barrier, and impact attenuators, and requiring the retention of existing screening vegetation on the parcel, 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


2. This application is being reviewed as a modification to an existing road. Commission Rule 350-81-540(1)(c)(A)(iii) states that modifications to existing structures are exempt from the requirement to conduct reconnaissance surveys for new review uses. However, this specific development was surveyed as part of a larger cultural resources survey conducted by WSDOT in 2004. Commission Rule 350-81-540(1)(c)(A)(iv) states:

   *The Gorge Commission may choose to conduct a reconnaissance survey for proposed uses listed in the exceptions if, in its professional judgment, a reconnaissance survey may be necessary to ensure protection of cultural resources.*

   To ensure adequate protection of cultural resources along the SR 14 corridor, Commission staff determined that a reconnaissance survey was required.

3. The slopes identified in this application were included in a 2004 cultural resources reconnaissance survey conducted by WSDOT for all potential slope stabilization projects along SR 14 in Skamania and Klickitat Counties. For this application, Roger Kiers, WSDOT Archaeologist, reviewed the 2004 survey and reevaluated the potential effect on cultural resources in the area, including conducting additional cultural resource survey work. In a letter submitted on February 19, 2021, Roger Kiers determined that there would be no effect to cultural resources from the proposed development.

4. Chris Donnermeyer, Heritage Resource Program Manager for the U.S. Forest Service Columbia River Gorge National Scenic Area, reviewed the land use application, the 2004 survey, and updated determination by Roger Kiers, and concluded in a Cultural Resources Review Letter, dated March 25, 2021, that he concurred with the determination of no effect on cultural resources. Pursuant to Commission Rule 350-81-540(2)(b), the reconnaissance survey report and Chris Donnermeyer’s concurrence were provided to the Washington State Department of Archaeology and Historic Preservation and to the four treaty tribes on April 12, 2021.

5. Commission Rule 350-81-540(2)(b) states that parties receiving notice of reconnaissance survey results have 30 calendar days to submit comments to the Executive Director. No comments were received by May 12, 2021.

6. Commission Rule 350-81-540(2)(c)(B)(ii) states the cultural resource protection process may conclude when the following conditions exist:
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.

The 2004 reconnaissance survey and 2021 reevaluation of that survey determined no effect to cultural resources. The project notice was mailed on February 23, 2021, and the 21-day comment period ended March 16, 2021. No substantive comments were received related to cultural resources. The results of the reconnaissance survey were mailed on April 12, 2021, and the 30-day comment period ended May 12, 2021. No substantive comments were received in that time period. Pursuant to Commission Rule 350-81-540(2)(c)(B)(i), the cultural resource protection process may conclude.

7. 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.

8. 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.

D. NATURAL RESOURCES

1. Commission Rule 350-81-560 protects wetland resources in the General Management Area. The proposed development is outside of nearby wetlands and their buffer zones. This guideline does not apply.

2. Commission Rule 350-81-570 protects streams, ponds, lakes, and riparian areas in the General Management Area. The Commission’s resource inventories show two intermittent streams that flow through the subject parcel, one between slopes 3337 and 3338, and one that flows over slope 3338.

3. Commission Rule 350-81-020(152) defines the term "stream" as:

Areas where surface water produces a defined channel or bed, including bedrock channels, gravel beds, sand and silt beds, springs and defined-channel swales. The channel or bed does not have to contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff structures, or other artificial watercourses unless they are used to convey streams naturally occurring prior to construction of such watercourses.
For the Management Plan, streams are categorized into two classes: perennial streams and intermittent streams. Perennial stream means a stream that flows year-round during years of normal precipitation. Intermittent stream means a stream that flows only part of the year, or seasonally, during years of normal precipitation.

Staff examined the identified streams using aerial images through the Commission’s GIS and through Google Earth, and also reviewed street level images and topographic projections using Google Earth. One of the identified streams originates in and clearly follows a topographic feature that creates a small natural drainage in the gap between slopes 3337 and 3338, which has a higher concentration of trees but does not create a defined channel or bed. The other identified stream originates in a perennial pond to the northeast of the subject parcel and appears to follow an irrigation ditch along a private driveway as it approaches the subject parcel, but it does not obviously follow topographic features from that irrigation ditch to the Columbia River, nor does it create a defined channel or bed anywhere on the subject parcel.

The Washington Department of Natural Resources uses a GIS model to predict where typed waters, including intermittent streams, may occur, and the Commission’s inventories display that data to staff when reviewing proposed development. The presence of an intermittent stream in the Commission’s resource inventory is simply an indicator to examine the area more closely to determine if the stream is present, as defined in Commission Rule 350-81-020(152).

4. Staff conducted a site visit on March 23, 2021 and confirmed that no channels or beds are present in the project area. At the western-most modeled stream, water drains down to a culvert under SR-14, which emerges on the southern side of the road and drains into the Columbia River. At the eastern-most modeled stream, staff observed water flowing down the rock face at the location of the eastern-most modeled stream. Staff were able to easily identify erosion from drainage where the GIS model predicted streams to be, but no other permanent physical features were present.

5. Because neither of the identified streams produce a defined channel or bed, they are not streams pursuant to Commission Rule 350-81-020(152). As there are no streams on the parcel, therefore there are no water resources on the parcel, and Commission Rule 350-81-570 does not apply.

6. Commission Rule 350-81-580 protects sensitive wildlife in the General Management Area. The proposed development takes place in an area identified in the Commission’s resource inventories as potential habitat for nesting raptor species. Notice of this development was sent to Amber Johnson, Habitat Biologist, Washington Department of Fish and Wildlife, on February 23, 2021.

7. Staff received a public comment regarding the potential impact of the rockfall ditches and concrete barriers on deer crossing SR-14 in this area. Staff met with the commenter to identify the area of concern. The identified area was in the gap between slopes 3337 and 3338, and around slope 3337, where the commenter stated that they had observed deer browsing and crossing SR-14. There is no identified deer range or habitat in the Commission’s inventories on this site. No work is proposed in the area between slopes 3337 and 3338, and no rockfall ditch or concrete barrier is proposed under slope 3337. Staff conducted a site visit on March 23, 2021, and confirmed that the deer crossing areas identified by the commenter will not impacted by the proposed development.

8. Commission Rule 350-81-580(4)(c) states:

   The wildlife protection process may terminate if the Executive Director, in consultation with the state wildlife agency, determines:

   (A) The sensitive wildlife area or site is not active, or
(B) The proposed use would not compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance.

Amber Johnson commented on March 8, 2021 that the Washington Department of Fish and Wildlife had no concerns about the proposed development. Amber was also contacted on April 12, 2021 about the potential impacts on deer crossing, and stated that there were no concerns about impacts to deer. The proposed use would not compromise the integrity of the wildlife area. This concludes review under Commission Rule 350-81-580.


Proposed uses shall not adversely affect sensitive plants. “Sensitive plants” means plant species that are
(A) endemic to the Columbia River Gorge and vicinity,
(B) listed as endangered or threatened pursuant to federal or state endangered species acts, or
(C) listed as endangered, threatened, or sensitive by the Oregon or Washington Natural Heritage program.

Commission inventories identified the presence of an endemic plant species within the project area, Penstemon barrettiae (Barrett’s beardtongue).

10. Commission Rule 350-81-590(2) lists the types of development that require a field survey for rare plants. No field survey is required for modifications to existing roads.

11. Commission Rule 350-81-590(3) states that review uses may be allowed within 1,000 feet of a sensitive plant, when approved pursuant to Commission Rule 350-81-590(4) and reviewed under the applicable provisions of Commission Rule 350-81-520 through Commission Rule 350-81-620. Commission Rule 350-81-590(4) includes review standards for uses that are proposed within 1,000 feet of a sensitive plant.

Staff notified the Washington Natural Heritage Program of the proposed development on February 23, 2021. Jasa Holt, Data Specialist, Washington Natural Heritage Program, commented on the proposed development on February 26, 2021. Jasa stated that the occurrence of Penstemon barrettiae in the Commission’s inventory is based on sighting information from 1981 and a specimen collection from 1986. The sighting information stated that the plant was sighted “6.3 miles east of Bingen,” which Jasa stated meant that there was a mile-wide area the plant could have been sighted in, depending on where the recorder considered the start of “Bingen.” The 1986 specimen collection did not have its own location information; it was added to the 1981 sighting record with no other notes.

As such, the WNHP records are not specific enough to conclude that the proposed development would take place within 1,000 feet of a sensitive plant. Jasa did note that Penstemon barrettiae has been seen in the vicinity along SR-14, Old Highway 8, above Rowland Lake, and elsewhere, and that the plant is more likely to be found in the vertical portions of cliffs, where it is not easily identified.

12. Commission staff visited the site on March 23, 2020. Staff were not able to identify any individual plants of Penstemon barrettiae from the ground on any of the three identified slopes.
13. WSDOT staff conducted two informal field surveys of the development site and surrounding area, to identify any individual plants of *Penstemon barrettiae*. These surveys were conducted on April 29 and May 10. No individual plants of *Penstemon barrettiae* were identified on site.

14. WNHP staff determined that if *Penstemon barrettiae* is present on the subject parcel, the proposed development would only have potential short-term impacts, more likely to occur in areas where people are walking or establishing anchors above the rockfaces than on the rockface itself. The plant is more likely to occur on the more solid ledges and crevices of the cliff faces, areas where WSDOT is unlikely to remove rock. Further, the species is no longer a candidate for federal protection, and there are other areas where the species is better protected. With this in mind, WHNP staff recommended that WSDOT staff try to avoid direct impacts to individual plants that are firmly rooted in place, and to collect seeds to donate to the Berry Botanical Garden in Portland, OR, or the University of Washington Miller Seed Vault in Seattle, WA.

15. Commission Rule 350-81-590(4)(e) states that review for protection of sensitive plants may conclude when, based on comments from WNHP staff, the Executive Director determines that the proposed use would be consistent with the rare plant policies and guidelines. Staff finds that by applying conditions of approval requiring WSDOT to avoid direct impacts to individual plants of *Penstemon barrettiae* that are firmly rooted in place, and to collect seed from any plants identified on the subject parcel during construction for donation to either the Berry Botanical Garden or Miller Seed Vault, that the proposed rock scaling, bolting, and construction of the rockfall ditch would be consistent with the rare plant policies and guidelines.

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 new buildings are proposed. The application is for the modification of an existing road, including new concrete barriers and impact attenuators along the north side of SR 14. The subject parcel contains the Chamberlain Lake Rest Area, at the east end of the parcel, south of SR 14. While development may temporarily impact public access to the Chamberlain Lake Rest Area during construction, the concrete barriers and impact attenuators will be more than 200 feet from the nearest access road and on the other side of SR 14. As such, the proposed development will not detract from the use and enjoyment of that site, and 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 proposed development is a modification to an existing road, and does not provide 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 February 23, 2021. The notice included a comment period of 21 days that ended on March 16, 2021. Further notice was mailed on April 12, 2021, containing the results of the reconnaissance survey. The notice included a comment period of 30 days that ended on May 12, 2021.

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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