COLUMBIA RIVER GORGE COMMISSION
DIRECTOR’S DECISION

CASE FILE: C21-0009

PROPOSAL: The Columbia River Gorge Commission has received an application for underground power distribution for two residences, the placement of two new 5,000-gallon plastic water reservoirs, and improvements to a man-made reservoir and holding pond.

APPLICANTS: Fred Heany, Ben Strackany, & Klickitat PUD

LANDOWNERS: Fred Heany 20 acres, tax lot: 03-11-2800-0026/00
Ben Strackany 20 acres, tax lot: 03-11-2800-0012/00

LOCATION: The subject parcels are located on Courtney Road, in the eastern half of Section 28, Township 3 North, Range 11 East, Willamette Meridian, Klickitat County, Washington.

LAND USE DESIGNATION: General Management Area (GMA) – Small-Scale Agriculture (80)

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

DECISION: Based upon the following findings of fact, the land use application by Fred Heany, Ben Strackany, and Klickitat PUD, 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 C21-0009, 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-National Scenic Area rules and regulations. It is the applicant’s responsibility to ensure the use complies with all other applicable federal, state, and county laws and to obtain necessary approvals, including utility easement approvals.

3. Any new land uses or structural development such as other accessory structures, additions, 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 exterior building materials shall be dark earth-tone colors. Only approved dark earth-tone colors for exterior materials shall be used. The new water tanks shall be black. Any proposed changes to these colors shall be submitted to the Gorge Commission for review for consistency with this condition of approval. The color of the development shall be maintained by painting and staining as necessary to maintain the approved color.

6. All exterior building materials shall be nonreflective or have low reflectivity.

7. The existing 10,000-gallon reservoir must remain in a useable condition, as part of the water system as a whole, or be removed from the property. I understand that this water will be used for agriculture on the property and for emergency fire suppression. The reservoir may not be abandoned in place. Clause III.C of the conservation easement requires reasonable repairs and maintenance of structures and grounds.

8. The utility easement must be explicitly subordinate to the rights owned by the United States of America.

9. No portion of the utility easement shall encroach on the National Forest System lands to the east of Mr. Heany’s parcel.

10. A 100-foot buffer zone shall be maintained around the perennial stream. No development activities shall occur within the buffer zone, and the buffer zone shall be maintained in its natural condition. The utility line shall be at minimum five feet below the stream bed.

11. All underground boring activities shall follow the *Contingency Plan for Drilling Fluid Migration and Release* and follow best management practices.

12. Except for dead trees or other dead vegetation that may pose a hazard, to the extent practical, all existing tree cover and vegetation in the vicinity of the development shall be retained and protected from damage as described in the approved project description.

13. All soils and areas disturbed during development shall be reseeded and permanently stabilized using soil erosion best management practices. Disturbed areas shall be
revegetated immediately upon completion of the project, or as soon as possible if the project is completed during the winter. The applicants are encouraged to use a certified weed-free seed mix. Staff is providing the applicants with the list of *Recommended Seed Mixes for East Side Environments*, which is an attachment to the Director’s Decision.

14. 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.

15. If human remains are discovered during construction activities, all activities shall cease immediately upon 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.

16. The applicant shall notify the Gorge Commission within 30 days of project completion to arrange for a **FINAL INSPECTION** to confirm compliance with all of the conditions of approval. Project completion means completion of all work to the exteriors of structures (including painting). The applicants shall arrange the inspection by calling the Gorge Commission at (509) 493-3323 or info@gorgecommission.org.

DATED AND SIGNED THIS 25 day of October 2021 at White Salmon, Washington.

[Krystyna U. Wolniakowski]
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 25 day of October 2023 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 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 applicant shall specify the date construction commenced. The Executive Director may grant an extension upon determining that conditions, for which the applicant is not responsible, would prevent the applicant 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 24th day of November 2021.
The decision of the Executive Director is final unless the applicants 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.

c: 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 C21-0009
Approved site plan and elevation drawings
USFS letter to Mr. Heany
Recommended Seed Mixes for East Side Environments
Contingency Plan for Drilling Fluid Migration and Release
The measurements and data detailed on the above White Salmon Quad has been taken from current surveys and additional past surveys recorded with klickitat County Auditors office.

I am a retired Civil Engineer and formerly Licensed Mechanical Engineer and have worked in conjunction with Steve Head Forester, Klein and Associates, Bell Engineering, a botanist for the US forest service, County staff engineers & Klickitat county PUD. We are hopeful that this application can now move ahead before we will be held up by fall and winter weather. I apologize that it took this long to address your concerns. I had a fall a month ago fracturing my hip. Today was the first day I could move carefully without crutches.
EXHIBIT C - AMENDED

REFURBISH REPLACE CLOSED LOOP POWER FOR SAFETY

N
SCALE
1" = 10'

FRED HEANY

NEW TO REPLACING
AGING RESERVOIR 3 LEAKS
+ CONNECT NEW LINES TO
TO WELL HEAD

RESERVOIR FOR EMERGENCY
USE DEFUNCT DUE TO LEAK

5000 G
8'-6" DIA

RES 1

5000 G
8'-6" DIA

RES 2

USA FOREST

PROPERTY LINE

UTILITY DEPTH 40" BY 3 TO 4' WIDE
TO COMPLETE HUD
CLOSED "LOOP"
TELEMETRY FOR DATA

VAULT

28'-6"

TANK

THE LAND IS ALMOST FLAT
THE RESERVOIRS BY 6" OF
ROCK AND 6" OF CONCRETE WILL BE SUPPORTED
WORK ORDER: WP217155
WO NAME: COURTNEY RD MOVE
CREW: WHITE SALMON CREW

CUSTOMER LOC #: 0011012003
WO TYPE: UNTION LINE MODIFICATIONS
WO CODE: UTION LINE MODIFICATIONS

- **Customer Meterbase**
  - New 1.5'x5' Switch Cabinet
  - New 4 PVC 4
  - New 1470 2ALJ5KVKT-3
  - New 1 UMI-72L
  - New 1 UMI-72V
  - New 6 UMI-3-1
  - New 1 UMI-34
  - New 6 UMI-6-11

- **New Transformer**
  - New 2500 2ALJ5KVKT-3
  - New 816 PVC 4
  - New 1 UMI-72L
  - New 1 UMI-72V
  - New 7 UMI-3-1
  - New 1 UMI-34
  - New 1 UMI-6-11

- **New 1.5'x5' Switch Cabinet**
  - New 1 HVR
  - New 1 VSR
  - New 1 UMI-72V
  - New 1 UMI-3-1
  - New 1 UMI-34
  - New 6 UMI-6-11

- **New Meterbase**
  - New 22 4 JTR/RD
  - New 1 CONS-UG 11-012-003 AT 9:00
  - New 1 METER
  - New 7 PVC 2

- **New 1.5'x5' Switch Cabinet**
  - New 1.5'x5' Switch Cabinet
  - New 1 HVR
  - New 1 VSR
  - New 1 UMI-72V
  - New 1 UMI-3-1
  - New 1 UMI-34
  - New 6 UMI-6-11
WORK ORDER: WP217155
WO NAME: COURTNEY RD MOVE
CREW: WHITE SALMON CREW

CUSTOMER LOC #: 0011012003
WO TYPE: NC
WO CODE: UTION LINE MODIFICATIONS

4
New 1.5'x5' Switch Cabinet
New 13/89 ZAL135KV/KFT-3
New 44/3 PVC 4
New 1 UM1-72L
New 1 UM1-72V
New 6 UM1-11
New 1 UM34
New 6 UM6-11

072831625

2
New 36' Switch Cabinet
Ext 255 ZAL135KV/KFT
New 1 UM10D
New 1 UMAT-36V
New 2 UM3-1
New 2 UM6-11

3
New 1.5'x5' Switch Cabinet
Ext 255 ZAL135KV/KFT
New 1 UM1-72L
New 1 UM1-72V
New 2 UM3-1
New 1 UM34
New 10 UM6-11
Fred Heany  
P.O. Box 1400  
White Salmon, WA 98672

Re: Development Review C21-0009 and USFS Conservation Easement GIP184

Dear Mr. Heany,

This letter addresses the proposal for activity on your property, in the W1/2NW1/4SE1/4, Sec. 28, T. 3 N., R. 11 E., Klickitat County, WA (Tax Lot 2600), described in Columbia River Gorge Commission Development Review C21-0009. You propose to install underground power along the east line of the property, place two new 5,000-gallon water cisterns, and make improvements to the man-made reservoir/holding pond.

The United States of America, by and through the Forest Service, Department of Agriculture, holds a conservation easement over the subject property (Recorded at Book 252, page 334 on 3/6/1989, AFN 47536). Through this easement, the Forest Service holds most rights associated with the property. For a proposal to be implemented, it must comply with the terms and conditions of the conservation easement, the Management Plan for the Columbia River Gorge National Scenic Area, and any other applicable codes.

Many activities, including those described in C21-0009, require the prior approval of the Forest Service, and other activities are prohibited outright by the conservation easement. The Forest Service reviews proposals with respect to the easement rights held by the United States of America. It is advisable to involve the Forest Service early in the proposal development process, especially for activities for which Forest Service approval is required.

The Forest Service acquired the conservation easement in 1989 to protect and provide for the enhancement of scenic, cultural, recreational, and natural resources of the Columbia River Gorge. The general purpose of the easement is to preserve and maintain the regular uses of the property as they existed at the time the easement was established.

The easement specifically defined the reserved rights of the Grantor in Part II of the deed. Reservations in the deed include: The structure and facilities associated with the waterworks, which may be remodeled, repaired or replaced (Clause II.C); and the ability to add structures accessory to existing facilities commonly used in the area for agricultural uses (Clause II.D).

In general, the Forest Service determines whether a proposed activity within a conservation easement area is compatible with the conservation of scenic, cultural, recreational, and natural resources of the Scenic Area, while also looking at whether the proposed activity falls within the explicit terms, conditions and rights reserved in Part II of the easement deed.
With the following conditions in place, the proposed project will meet both requirements, and is approved:

- The existing 10,000-gallon reservoir must remain in a useable condition, as part of the water system as a whole, or be removed from the property. I understand that this water will be used for agriculture on the property and for emergency fire suppression. The reservoir may not be abandoned in place. Clause III.C of the conservation easement requires reasonable repairs and maintenance of structures and grounds.

- The utility easement must be explicitly subordinate to the rights owned by the United States of America.

- No portion of the utility easement shall encroach on the National Forest System lands to the east of parcel 2600.

Nothing in this letter gives you the right to commence implementation of this proposal until you have a signed decision from the Columbia River Gorge Commission.

I must emphasize that most activity on this property requires the review and approval of the Forest Service, even for items reserved to you as the Grantor. Please contact Miki Fujikawa, Lands Staff Officer, at 971-303-2816, or miki.fujikawa@usda.gov if you have any questions.

Sincerely,

DONNA MICKLEY
Forest Supervisor

Bryce Guske, Columbia River Gorge Commission via email
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 |

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

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

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 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:


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.
Contingency plan for Drilling Fluid Migration and Release

Frac-out, or inadvertent return of drilling lubricant, is a potential concern when the HDD is used under sensitive habitats, waterways, and areas of concern for cultural resources. The HDD procedure uses Bentonite slurry, a fine clay material as a drilling lubricant. The Bentonite is non-toxic and commonly used in farming practices.

The purpose of a contingency plan or frac-out plan is to:

- Minimize the potential for a frac-out associated with HDD activities.
- Provide for timely detection of frac-outs.
- Protect areas that are considered environmentally sensitive (streams, wetlands, cultural resources)

*Northwest Drilling and Boring does not anticipate the occurrence of any frac-outs. However in the event of a frac Northwest Drilling and Boring will be well prepared and have products on site and available. Most notable of these products is a polymer product produced by Wyo-Ben designed to migrate into the frac point and produce a seal, it is known as PLUGZ-IT. Straw wattles, silt fence and hay bales or some combination of these BMP’s will be on-site and readily accessible at all times.*

Once a frac-out is identified:

- All work stops, including the recycling of drilling mud/lubricant. The pressure of water above the pipe keeps excess mud from escaping through the fracture.
- Determine the location and extent of the frac-out.
- Isolate the area with straw wattles, sand bag, silt fence, or hay bales to surround and contain the drilling mud.
- A mobile vacuum truck will be used to pump the drilling mud from the contained area and returned to the recycle pit.
- Once excess drilling mud is removed, the area will be seeded or allowed to re-grow from existing vegetation.

Mike Craig: 503-201-8218  mike@nwdrillingandboring.com

Jesse Krueger: 503-991-2514  jesse@nwdrillingandboring.com
CASE FILE: C21-0009

PROPOSAL: The Columbia River Gorge Commission has received an application for underground power distribution for two residences, the placement of two new 5,000-gallon plastic water reservoirs, and improvements to a man-made reservoir and holding pond.

APPLICANTS: Fred Heany, Ben Strackany, & Klickitat PUD

LANDOWNERS: Fred Heany 20 acres, tax lot: 03-11-2800-0026/00
Ben Strackany 20 acres, tax lot: 03-11-2800-0012/00

LOCATION: The subject parcels are located on Courtney Road, in the eastern half of Section 28, Township 3 North, Range 11 East, Willamette Meridian, Klickitat County, Washington.

LAND USE DESIGNATION: General Management Area (GMA) – Small-Scale Agriculture (B0)

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

COMMENTS FROM INDIVIDUALS/AGENCIES/GOVERNMENTS:

Notice of the subject request was mailed to property owners within 200 feet of the subject parcel and the following organizations/agencies/governments:

Confederated Tribes and Bands of the Yakama Nation
Confederated Tribes of the Umatilla Indian Reservation
Confederated Tribes of Warm Springs Reservation of Oregon
Nez Perce Tribe
U.S. Forest Service National Scenic Area Office (USFS CRGNSA)
Washington Department of Archaeology and Historic Preservation (DAHP)
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 (WDFW)
Friends of the Columbia Gorge

Written comments were received from:

Steve McCoy, Staff Attorney, Friends of the Columbia Gorge
Chris Donnermeyer, Heritage Resource Program manager, USFS CRGNSA
Miki Fujikawa, Lands Staff Officer, USFS CRGNSA
Casey Gatz, Resources and Planning Staff Officer, USFS CRGNSA
Sydney Hanson, Transportation Archaeologist, DAHP
Amber Johnson, Habitat Biologist, WDFW

FINDINGS OF FACT:

A. LAND USE

1. The applicants are requesting underground power distribution for two residences, the placement of two new 5,000-gallon plastic water reservoirs, and improvements to a man-made reservoir and holding pond. The purpose of the project is to refurbish the failing water works facility which serves Mr. Heany’s property, and to provide uninterrupted power to Mr. Strackany’s property during the Courtney Road improvement project which was approved in Director’s Decision C19-0019.

Currently, power for the Courtney Road area is provided from the south, near SR 14. After the completion of the Courtney Road improvement project, this development will give Klickitat PUD the ability to provide power to the Courtney Road area from the Snowden area, which will have major benefits in providing continued service in case of wildfires or major winter storms.

2. The two subject parcels are each 20 acres and are designated GMA Small-Scale Agriculture. The properties are located on Burdoin Mountain and are accessed off Courtney Road.

Currently the only developments on Mr. Heany’s property are the holding pond, the reservoir and supporting equipment for the well. Mr. Heany signed a conservation easement with the Forest Service on March 3, 1988 (Klickitat County Book 252, Pages 334 – 338, AFN 47536). The purpose of the easement is to preserve and maintain the regular uses of the property as it existed at the time the easement was signed. Present preexisting regular use of the property were documented and included as reservations in the easement. The pre-existing use of the property was for agricultural and woodlot purposes. The easement described the three acres of the twenty-acre property as occupying the waterworks facilities and overflow holding pond, twelve acres as brush and residual timber, and five acres as native pastureland.
The Forest Service received an offer from landowner Fred Heany for sale of the parcel on March 29, 2001. The Forest Service did not acquire it and the property became subject to the GMA guidelines on March 29, 2004. The Forest Service designated the land GMA Small-Scale Agriculture with an 80-acre minimum parcel size.

Mr. Strackany's property is currently in residential use. The property is densely covered in mature trees including mature Oregon white oak, Douglas fir, and ponderosa pine. Director's Decision C04-0009 approved a replacement single-family dwelling and detached garage on September 24, 2004.

The Forest Service received an offer for Mr. Strackany's property from then landowner William Schmidt, for sale of the parcel on March 27, 2001. The Forest Service did not acquire it and the property became subject to the GMA guidelines on March 27, 2004. The Forest Service designated the land GMA Small-Scale Agriculture with an 80-acre minimum parcel size.

3. Commission Rule 350-81-082(2) allows for the replacement of existing structures not damaged or destroyed by disaster. An existing structure may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within one year of the date the use of the original structure was discontinued. The replacement structure shall comply with the following standards:

   (A) The replacement structure shall be used in the same manner and for the same purpose as the original structure.
   (B) The replacement structure may have a different size and/or location than the original structure. An existing mobile home may be replaced with a framed residence and an existing framed residence may be replaced with a mobile home.
   (C) The replacement structure shall be subject to the scenic, cultural, recreation and natural resources guidelines; the treaty rights guidelines; and the land use designations guidelines involving agricultural buffer zones, approval criteria for fire protection, and approval criteria for siting of dwellings on forest land.
   (D) The original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the one year time frame.

Mr. Heany signed a conservation easement with the Forest Service on March 3, 1988. The purpose of the easement was to preserve and maintain the regular uses of the property as it existed at the time the easement was signed. The easement also defined specific rights reserved by the grantor, Mr. Heany, in Part II of the deed. Reservations in the deed include: the structure and facilities associated with the waterworks, which may be remodeled, repaired or replaced (Clause II.C); and the ability to add structures accessory to existing facilities commonly used in the area for agricultural uses (Clause II.D). Staff discussed the project with Forest Service staff and determined that proposed changes to the water works are in accordance with this rule and with the easement.
4. Commission Rule 350-81-190(1)(b) allows agricultural structures in conjunction with agricultural use. Mr. Heany indicated that he would like to retain and refurbish the existing water reservoir to be used for agriculture on the property and for emergency fire suppression. Staff discussed the project with Forest Service staff and determined that proposed changes to the water works are in accordance with this rule. A condition of approval is included requiring the reservoir to not be abandoned in place, consistent with the conservation easement which requires reasonable repairs and maintenance of structures and grounds.

5. Commission Rule 350-81-200(1) lists the review uses that may be allowed on lands designated Large-Scale or Small-Scale Agriculture, subject to compliance with the guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620) and the "Approval Criteria for Specified Review Uses," (350-81-220). Commission Rule 350-81-200(1)(a) allows:

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Utility facilities and railroads necessary for public service upon a showing that (1) there is no practicable alternative location with less adverse effect on agricultural or forest lands, and (2) the size is the minimum necessary to provide the service.
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Commission Rule 350-81-020(168) defines utility facility as:

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Any structure that provides for the transmission or distribution of water, sewer, fuel, electricity, or communications.
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The purpose of the new transmission line for Klickitat County PUD is the ability to provide continued service to Mr. Strackany's property during the Courtney Road improvement project (Decision 19-0019). Currently, power for the Courtney Road area is provided from the south, near SR 14. After the completion of the Courtney Road improvement project, this development will give Klickitat PUD the ability to provide power to the Courtney Road area from the Snowden area, which will have major benefits in providing continued service in case of wildfires or major winter storms. The proposed electrical line is a distribution line and will be 7.2 kilovolts. The proposal is not considered a Large-Scale Use pursuant to 350-81-540(1)(c)(C) because it is not 33 kilovolts or greater.

6. Commission Rule 350-81-220 requires that the proposal to comply with the following criteria:

```
(a) The use is compatible with agricultural uses and would not force a change in or significantly increase the cost of accepted agricultural practices on nearby lands devoted to agricultural use; and
(b) The use will be sited to minimize the loss of land suitable for the production of crops or livestock.
```

Currently, the only developments on Mr. Heany's property are the pond, water reservoir and supporting equipment for the well. Mr. Strackany's property is currently in residential use. Adding two new water reservoirs and keeping the existing reservoir as a
backup will not significantly change or increase the cost of agricultural practices in the area. No new buildings are proposed. The area of the development is already functioning as a water works facility, the ground is already compacted from previous equipment use, and no new roads are proposed. After the development is complete, both properties will still be suitable for agricultural use. Staff discussed the project with Forest Service staff and determined that proposed work was consistent with the existing easement on Mr. Heany’s property. The proposal minimizes the loss of suitable agricultural land on the subject parcel to the greatest extent practical.

CONCLUSION:

The proposal is an allowed review use, subject to Commission Rules 350-81-520 through 350-81-620 that protect scenic, cultural, natural, and recreation resources.

B. SCENIC RESOURCES

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

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

   No new buildings or roads are proposed. There are existing dirt access roads on Mr. Heany’s property that will be used to access the site locations.

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

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

   No new buildings are proposed.

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

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

   The applicants are required to reseed all exposed and bare soils after trenching is completed. The applicants are encouraged to use a certified weed-free seed mix. Staff is providing the applicants with a list, *Recommended Seed Mixes for East Side Environments*, which is an attachment to the Director’s Decision. The list provides seed and grass mixes available locally for dry eastern gorge climates. Consistent with this rule, a condition is included requiring disturbed areas be revegetated immediately upon completion of the project, or as soon as possible if the project is completed during the winter.
4. Commission Rule 350-81-520(1)(e) states:

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

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

5. Commission Rule 350-81-520(2) contains guidelines that affect developments on sites visible from KVAs. Staff determined the subject parcel is topographically visible from four KVAs: Columbia River Historic, Columbia River Highway (HCRH), I-84, and Rowena Plateau. Because the proposed development is topographically visible from KVAs, the guidelines of Commission Rule 350-81-520(2) are applicable. The proposed development is visible from the four KVAs at the following distance zones:

<table>
<thead>
<tr>
<th>Key Viewing Area (KVA)</th>
<th>Distance Zone</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Foreground 0 - 1/4 Mile</td>
</tr>
<tr>
<td>Columbia River</td>
<td></td>
</tr>
<tr>
<td>Historic Columbia River Highway</td>
<td></td>
</tr>
<tr>
<td>Interstate 84</td>
<td></td>
</tr>
<tr>
<td>Rowena Plateau</td>
<td></td>
</tr>
</tbody>
</table>

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

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

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

The Director’s Decision contains requirements and conditions of approval to ensure the development is *visually subordinate*. Factors contributing to the visibility of the development include distance from KVAs, dark earth tone colors of the water reservoirs, and existing vegetation.
7. Commission Rule 350-81-520(2)(c) states that the determination of potential visual effects and compliance with visual subordinance policies shall include consideration of the cumulative effects of proposed developments. Commission Rule 350-81-020(40) defines cumulative effects as:

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

To evaluate the cumulative effects of the proposal, staff analyzed existing development and development potential of the adjacent and nearby lands on Burdoin Mountain’s southern slope. Burdoin Mountain is a large feature in the National Scenic Area and Klickitat County. It climbs to 2,258 ft. elevation at its peak, located just north of Bingen, WA. The southern slope occupies approximately 2,750 acres in the National Scenic Area. As seen from KVAs in the distance, the area is not densely populated, but existing dwellings and accessory buildings are visibly scattered throughout the landscape. Existing development in the vicinity of the proposal project that presents visual impacts includes Courtney Road as currently constructed, SR-14, the BNSF railroad, and the Coyote Wall Recreation Area parking lot. Currently, Courtney Road is the only road climbing the northern slope of Burdoin Mountain and is the only road providing access to residential homes in that area.

Several factors ensure the proposed development will be visually subordinate as viewed from KVAs, including the size of the reservoirs, viewing distance, reservoir colors and materials, and screening vegetation. The proposed development will be difficult to distinguish in the landscape because the closest KVA is three miles away.

To mitigate for adverse effects that could arise from the proposed development, a condition of approval requires all soils and areas disturbed during development to be reseeded and permanently stabilized using soil erosion best management practices. The condition of approval requires disturbed areas to be revegetated immediately upon completion of the project, or as soon as possible if the project is completed during the winter. The applicants are encouraged to use a certified weed-free seed mix. Staff is providing the applicants with the list of *Recommended Seed Mixes for East Side Environments*, which is an attachment to the Director’s Decision. No existing trees are proposed to be removed; however, another condition of approval is included requiring the applicant to retain all existing tree cover to ensure that the overall visual character and appearance of the landscape is retained. These conditions will ensure the project avoids any potential adverse impacts.

It is unlikely that there would be multiple similar utility developments on the same piece of ground given the nature of the development. Staff does not anticipate any other utility projects or similar linear projects in this area at any time in the future. It is also unlikely there will be similar waterworks project on the same piece of ground given the nature of the proposal and existing easement. It is possible that there may be similar agricultural structures on the same piece of ground given the existing agriculture use and the size of
the applicant's property, and any proposal for agricultural structures would be based on existing or proposed agricultural use.

If new developments are built according to applicable Land Use Designation guidelines in the vicinity of the proposed development, and if they are designed to meet the guidelines of this chapter, they will be held to the same visual resource protection standards and required to be visually subordinate. Development designed and sited to be visually subordinate will not cause adverse cumulative scenic impacts because there will be no significant increase in visibility of new development on the landscape. If new developments are built in a comparable manner to the proposal and are visually subordinate, there will be limited cumulative effects to scenic resources. As designed and conditioned, the proposed development will not cause adverse scenic impacts, and will not cause adverse cumulative scenic impacts, consistent with Commission Rule 350-81-520(2)(c).

8. Commission Rule 350-81-520(2)(d)(A) 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 site is visible from the four KVAs listed above in Finding B.5. Using GIS inventories and conducting site visits, staff found that the proposed building site is not visible in the foreground or middle ground of any KVA, and the closest KVA the project is visible from is over three miles away. The water reservoirs are the only visible structural elements of the proposal and will be fully screened from all KVAs by existing vegetation.

The site is visible topographically from the Columbia River in the background for a linear distance of 2 miles. From HCRH, the proposed building site is visible topographically in the background for 3.75 miles. From I-84 the proposed building site is visible topographically in the background for 4.5 miles. From the Rowena Plateau viewpoint, the site is visible in the background.

The applicants have chosen a site for the development that is heavily wooded and setback over a quarter mile from the Burdoin mountain bluff. On the subject parcel and in the vicinity, trees vary in height from thirty to eighty feet and are a mix of oak, fir, and pine trees. Each reservoir will be fifteen feet tall, which is significantly smaller in height than
existing vegetation surrounding the development. From KVAs in the background, existing vegetation both on and off the subject parcel provide effective screening because at that viewing distance the development will not be visible. As explained below, the development is designed to be visually subordinate. The findings in this staff report include conditions of approval in accordance with this rule.

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

Conditions may be applied to various elements of proposed developments to ensure they are visually subordinate to their setting as seen from Key Viewing Areas, including but not limited to:
(i) Siting (location of development on the subject property, building orientation, and other elements).
(ii) Retention of existing vegetation.
(iii) Design (color, reflectivity, size, shape, height, architectural and design details and other elements).
(iv) New landscaping.

Several factors ensure the proposed structures and development will be visually subordinate as viewed from KVAs, including the size and color of the water reservoirs, viewing distance from KVAs and screening vegetation. The development will be fully screened from all KVAs by existing vegetation, and the closet KVA the project is topographically visible from is over three miles away. The proposed water reservoirs are not large and are required to be dark green, making them difficult to distinguish in the background from KVAs. No trees are proposed to be removed, and no new landscaping is required by this Decision. However, a condition of approval is included requiring the applicant to retain all existing tree cover to ensure that the overall visual character and appearance of the landscape is retained. To mitigate for adverse effects that could arise from the proposed trenching, a condition of approval requires the applicant to reseed the trench. With these conditions the proposal will be visually subordinate as viewed from KVAs and consistent with the design guidelines for the Oak-Woodlands Landscape Setting. Staff finds these conditions to be proportionate to the development’s potential visual impact as seen from KVAs.

10. 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.

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

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

The applicants have chosen a site for the development that is heavily wooded and setback over a quarter mile from the Burdoin mountain bluff. The water reservoirs are the only visible structural elements of the proposal and will be fully screened from all KVAs by existing vegetation. Each reservoir will be fifteen feet tall, which is significantly smaller in height than existing vegetation surrounding the development.

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

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

The subject parcel is in the Oak-Pine Woodlands landscape setting. Findings for the Landscape Settings Design Guidelines are addressed below.

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

   The silhouette of new buildings shall remain below the skyline of a bluff, cliff, or ridge as seen from Key Viewing Areas...

No buildings are proposed. The bluff south of the project area rises to at an elevation of approximately 2,240 ft, and the water reservoirs are at an elevation 1,610 feet and set back over a quarter mile from the steep slopes to the south. The water reservoirs are the only structural elements of the proposal, and each reservoir will be fifteen feet tall, which is significantly smaller in height than existing vegetation nearby. The proposal is consistent with this rule.

14. 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 applicants did not propose a landscaping plan as part of the proposal, and no new landscaping is required to screen development from KVAs.

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

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

The applicants have proposed Forest Green or Black for the color of the new water reservoirs. Both colors are dark earth-tones found in the surrounding landscape. A condition of approval requires all exterior surfaces of the proposed development to be these specific colors to ensure consistency with Commission Rule 350-81-520(2)(l).

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

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

The exterior materials for the water reservoirs are a composite plastic, which is not a reflective material.

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

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

No lighting fixtures are proposed. The proposal is consistent with this rule.

18. Commission Rule 350-81-520(2)(z) states:
Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill slopes from Key Viewing Areas.

No driveways or buildings are proposed. They only two structures are the 5,000-gallon water reservoirs, which are sited on flat ground and will not require any grading, consistent with this rule.

19. Commission Rule 350-81-520(2)(aa) requires all proposed structural development involving more than 200 cubic yards of grading on sites visible from KVAs to include a grading plan containing specific plan elements. The applicants provided a site plan with the proposed ditching and supporting documents containing all of the necessary grading elements including diagram with typical ditch elevations.

20. 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.

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

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

On the subject parcel and in the vicinity, trees vary in height from thirty to eighty feet and are a mix of oak, fir, and pine trees. Each reservoir will be fifteen feet tall, which is significantly smaller in height than existing vegetation surrounding the development. As proposed, the height of the water reservoirs is consistent with this rule.

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

In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual 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., existing tree cover screening the development from Key Viewing Areas shall be retained.

For treeless portions or portions with scattered tree cover:

(iv) Structures shall be sited on portions of the property that provide maximum screening from Key Viewing Areas, using existing topographic features.
(v) Patterns of plantings for screening vegetation shall be in character with the surroundings. Residences in grassy, open areas or savannahs shall be partly screened with trees in small groupings and openings between groupings.

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

The property has thick mature tree coverage which screens the development from view of KVAs. No trees are proposed to be removed, and no new landscaping is required by this Decision. No trees are proposed to be removed, and no new landscaping is required by this Decision. However, a condition of approval is included requiring the applicant to retain existing tree cover screening the development to ensure that the overall visual character and appearance of the landscape is retained, consistent with this rule.

CONCLUSION:

The proposed development is consistent with Commission Rule 350-81-520 that protects scenic resources in the National Scenic Area.

C. CULTURAL RESOURCES


2. Chris Donnermeyer, Heritage Resource Program Manager, USFS CRGNSA, reviewed the land use application and determined in a Cultural Resources Survey Determination letter, dated August 11, 2021, 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 involve the modification, expansion, replacement, or reconstruction of existing buildings and structures, would occur on sites that have been disturbed by human activities, would occur on a site that has been adequately surveyed in the past (Dryden 2004), would occur on a site that has been determined to be located within a low probability zone, and does not occur within 500 feet of a known archaeological site.

3. Commission Rule 350-81-540(1)(c)(B) describes when a historic survey is required. In his August 11, 2021, Cultural Resources Survey Determination letter, Mr. Donnermeyer determined that a historical survey is not required because the proposed use would alter the exterior architectural appearance of significant buildings and structures that are 50 years old or older and would not compromise features of the surrounding area that are important in defining the historic or architectural character of significant buildings or structures that are 50 years old or older.


The Executive Director shall make a final decision on whether the proposed use would be consistent with 350-81-540. If the final decision contradicts the
comments submitted by the State Historic Preservation Officer, the Executive Director shall justify how an opposing conclusion was reached.

Sydney Hanson, Transportation Archaeologist, DAHP, submitted a letter on August 17, 2021, requesting a survey because the previous survey was over fifteen years old and does not meet DAHP’s current standards for cultural resource reporting. Staff discussed the letter with Mr. Donnermeyer, and who maintained his determination that a survey is not necessary. Staff responded to Ms. Hanson’s on August 25, 2021 and explained that a reconnaissance survey is not necessary because per the CRGNSA Management Plan (MP), Part I, Chapter 2, Page 10, “Subsurface testing shall be conducted if the surface survey reveals that cultural resources may be present.” Since no cultural materials were exhibited on the surface when survey of the current project area was conducted in 2004, which included close examination of bare mineral soils as well as rodent burrows, subsurface investigations were not conducted. This is consistent with survey standards established in the MP as well as the CRG NSA Inventory Strategy (Boynton 2002). Therefore, under requirements of the CRG NSA MP and CRG NSA Inventory Strategy, the 2004 survey is adequate, and consistent with the standards required for proposed developments on private lands with CRG NSA General Management Areas (GMA). There is a portion of the proposed project area that was not surveyed in 2004. However, this portion of the project is in a low probability area with no survey required. This determination is consistent with the CRG NSA Management Plan. There are no buildings over 45 years of age within or near the project area.

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 August 3, 2021, and the comment period ended on August 24, 2021. As explained above, the proposed use did not require a reconnaissance or historic survey and no substantiated concerns were received regarding cultural resources. Pursuant to Commission Rule 350-81-540(2)(c)(B)(i), the cultural resource protection process may conclude.

5. 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 is included in the director’s decision consistent with this rule.

6. Commission Rule 350-81-540(7) contains provisions addressing discovery of human remains during construction. A condition of approval is included in the director’s decision consistent with this rule.
CONCLUSION:

With conditions protecting unknown cultural resources and human remains discovered during construction, the proposal 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 provides guidelines for protecting wetlands (Section 560); streams, ponds, lakes, and riparian areas (Section 570); sensitive wildlife areas and sites (Section 580); and sensitive plants (Section 590).

2. The Gorge Commission’s natural resource inventories do not identify any wetlands on the subject parcel and no wetlands were observed during site visits. The proposal is consistent with Commission Rule 350-81-560 that protects wetland resources.

3. Commission Rule 350-81-570 provides for the protection of stream, pond, lake, and riparian areas. The Gorge Commission’s natural resource inventories identify one stream in the vicinity of the project; Commission Rule 350-81-570 applies.

4. Commission Rule 350-81-570(1) states:

   Stream, Pond, and Lake Boundaries and Site Plans for Review Uses in Aquatic and Riparian Areas
   (a) If a proposed use would be in a stream, pond, lake or their buffer zones, the project applicant shall be responsible for determining the exact location of the ordinary high watermark or normal pool elevation.
   (b) In addition to the information required in all site plans, site plans for proposed uses in streams, ponds, lakes, and their buffer zones shall include:
      (A) a site plan map prepared at a scale of 1-inch equals 100 feet (1:1,200), or a scale providing greater detail;
      (B) the exact boundary of the ordinary high watermark or normal pool elevation and prescribed buffer zone; and
      (C) a description of actions that would alter or destroy the stream, pond, lake, or riparian area.

Adequate site plans were provided by the applicant. 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. The stream flows from the west side of Courtney Road through a culvert and continues in a south easterly direction as well-defined stream channel into a ponded area located outside of the project boundary.

4. Commission Rule 350-81-570(2) states,
Commission Rule 350-81-570 shall not apply to proposed uses that would occur in those portions of the main stem of the Columbia River that adjoin the Urban Area.

The project is not located in the main stem of the Columbia River and does not adjoin an Urban Area and is therefore not exempt from Commission Rule 350-81-570.

5. Commission Rule 350-81-570(7) states,

Stream, Pond, and Lake Buffer Zones
(a) Buffer zones shall generally be measured landward from the ordinary high water-mark on a horizontal scale that is perpendicular to the ordinary high water-mark. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:
   (A) Streams used by anadromous or resident fish (tributary fish habitat), special streams, intermittent streams that include year-round pools, and perennial streams: 100 feet
   (B) Intermittent streams, provided they are not used by anadromous or resident fish: 50 feet
   (C) Ponds and lakes: Buffer zone widths shall be based on dominant vegetative community as determined by 350-81-560(7)(b), substituting the term pond or lake as appropriate.
(b) Except as otherwise allowed, buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.
(c) Determining the exact location of the ordinary high water-mark or normal pool elevation shall be the responsibility of the project applicant. The Executive Director may verify the accuracy of, and may render adjustments to, an ordinary high water-mark or normal pool delineation. In the event the adjusted boundary delineation is contested by the applicant, the Executive Director shall, at the project applicant’s expense, obtain professional services to render a final delineation.

As currently proposed, the utility needs to cross the stream to accomplish the project’s goal of delivering power from the Snowden area to the north and from Hwy 141 to the south. According to the Washington State Department of Natural Resources Forest Practices Application Mapping Tool, the stream is designated perennial non-fish bearing (Np). Pursuant to Commission Rule 350-81-570(7), perennial streams have 100-foot buffers.

The proposal will not impact the buffer zone for the stream because no ground disturbing activities will take place within the buffer widths required by this rule. As defined above, buffer zones are measured landward from the ordinary high water-mark on a horizontal scale that is perpendicular to the ordinary high water-mark. To avoid disrupting the buffer, the applicants have proposed hiring a contractor, NW Drilling & Boring, to directionally
drill a borehole for the transmission line and conduit underneath the stream and the 100-foot buffer. According to contractor, the utility line will be at minimum five feet below the stream bed where the utility line bisects. The applicant’s contractor prepared a mitigation plan for the proposed work entitled *Contingency Plan for Drilling Fluid Migration and Release* for the portion of the work that is underneath the stream bed. A condition of approval is included with this Decision requiring the applicant to follow the *Contingency Plan for Drilling Fluid Migration and Release* and construct all development using best management practices.

As proposed, the buffer zone will be retained in its natural condition, consistent with this rule, and this design will not result in a loss of water quality, natural drainage, or fish and wildlife habitat. All work by the contractor will be performed outside of the required 100-foot buffer for the stream. A condition of approval is included to alert the landowners to this requirement to ensure the buffer zone around the stream is retained in its natural state. With conditions of approval regarding wetland mitigation the proposed project is consistent with Commission Rule 350-81-560(7).

6. Commission Rule 350-81-580(4)(a) requires the Gorge Commission notify the Washington Department of Fish and Wildlife (WDFW) when a new development or land use is proposed within a sensitive wildlife area, in this case, deer and elk winter range and western gray squirrel habitat. On August 3, 2021, Gorge Commission staff sent WDFW a copy of the applicant’s land use application and site plan.

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

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

Amber Johnson, WDFW Habitat Biologist, did not indicate any concerns with the proposal. The proposed trenching will not reduce the acreage of deer and elk winter range nor result in changes to vegetation or accessibility of winter range habitat to wildlife. The proposed water reservoirs are replacements for existing water reservoirs and will be located next to the existing water reservoir and water works facility and will not reduce the acreage of deer or elk winter range, The proposed use will not compromise the integrity of the wildlife area.

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

*The wildlife protection process may terminate if the Development Review Officer, in consultation with the appropriate state wildlife agency, determines: the sensitive wildlife area is not active; or the proposed use would not compromise the integrity of the wildlife area, or occur during the time of the year when wildlife species are sensitive to disturbance.*
WDFW did not indicate any concerns with the proposed development. Pursuant to Commission Rule 350-81-580(4)(c), staff does not believe the proposed development compromises the integrity of the parcel as wildlife site due to the size and location of the development.

9. Commission Rule 350-81-580(1)(c) states:

*Proposed uses within 1,000 feet of a sensitive wildlife area or site shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.*

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

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

As noted in finding D.4 above, the development site is located within winter range and western gray squirrel habitat. Staff also considered the existing conditions of the study area and the likelihood of other similar development in the area. For the purposes of evaluating the cumulative effects of repeated similar activities, staff focused on similarly zoned Scenic Area lands within the Klickitat River Winter Range.

The Big White Salmon River Winter Range is approximately 16,000 acres spanning three to four miles on either side of the White Salmon River. Existing conditions in the study area can be described as rural with dispersed structural development. Corridors of trees exist in the study area, primarily along stream corridors which have protected buffers.

WDFW did not indicate any concerns with the proposed development. Staff believes the proposed development will have little effect on existing deer and squirrel habitat. Pursuant to Commission Rule 350-81-580(1)(c), staff does not believe the proposed development creates any adverse effects, including cumulative effects, to the integrity of the parcel as wildlife site, due to the location and the nature of the development.

10. The Gorge Commission’s sensitive plant inventory does not show any sensitive plant sites within 1,000 feet of the proposed development. The proposal complies with Commission Rule 350-81-590 that protects sensitive plants.

**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.

Both properties are designated Recreation Class 2, according to the Gorge Commission’s Recreation Intensity Class map. The proposed development is located near Forest Service lands associated with the Coyote Wall recreation site, but the proposal will not detract from the use and enjoyment of the site.

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 requirements for projects in or providing access to the Columbia River or its fish bearing tributaries or for projects that may affect tribal 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 Treaty Tribe governments on August 3, 2021. The notice included a comment period of 21 days that ended on August 24, 2021.

3. Commission Rule 350-81-084(1)(b) lists guidelines for tribal government consultation when any of 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 Indian tribe.

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