

## DIRECTOR'S DECISION

**CASE FILE:** C17-0016

**PROPOSAL:** The Columbia River Gorge Commission received an application to expand the existing Cherry Orchard Trail, to decommission and realign segments of the trail, to install nine signs, and to establish three new viewpoint overlooks.

**APPLICANT:** Friends of the Columbia River Gorge Land Trust

**LANDOWNER:** Friends of the Columbia River Gorge Land Trust

**LOCATION:** The subject parcels are located directly to the east of Lyle, WA, in Sections 1 and 2, Township 2 North, Range 12 East, Lyle, Washington. Klickitat County Tax Lot Number 02120200000500 is 69.60 acres, 02120200001000 is 34.3 acres, 02120200000400 is 158.9 acres, 03123500002000 is 10 acres, 02120200000300 is 10 acres, 03123500001900 is 10 acres, 02120200000200, 02120100000300 is 110.7 acres.

### LAND USE

**DESIGNATION:** The subject parcels are in the General Management Area and designated Small Woodland, Large-scale Agriculture and Small-scale Agriculture.

### DECISION:

Based upon the following findings of fact, the land use application by Friends of the Columbia Gorge Land Trust to modify and add segments to the Lyle Cherry Orchard Trail 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:

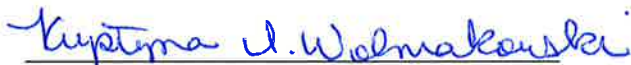
The following conditions of approval are given to ensure that the subject request is consistent with the standards of Section 6 and the purposes of P.L. 99-663, and the Management Plan and approvable under Commission Rule 350-81. Compliance with them is required. **This decision must be recorded in county 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 C17-0016, and approved site plan shall be recorded in county deeds and records at the Klickitat County Auditor's Office. Once recorded, the applicants shall submit a copy of the recorded document to the Executive Director at the Commission.
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 obtain necessary approvals, including utility easement approvals.

3. Any new land uses or structural development such as residences; garages, workshops, or other accessory structures; additions or alterations; or grading not included in the approved application or site plan will require a new application and review.
4. The development shall be constructed as shown on the approved project description, site plan and elevation drawings. Any changes shall be reviewed and approved by the Executive Director before the changes are implemented.
5. The new segments of trail will be constructed by hand using “full-bench” tread to minimize erosion and reduce maintenance, and following the guidelines in the U.S. Forest Service handbook, Trail Construction and Maintenance (2007).
6. On the sections of trail that will be constructed on the steepest grades – up to 65% grade, approximately 2,137 feet and identified as red on the grading plan – the following conditions apply:
  - a. The trail will be sited to use existing natural topography to achieve visual subordination from key viewing areas.
  - b. Soils removed during construction will be scattered broadly both above and below the trail to minimize the visibility of removed soils and not create adverse scenic impacts. If removed soils will completely cover existing vegetation, soils will be removed from the site to an alternate location.
  - c. The width of the trail will be constructed using a partial bench method or utilizing the minimum trail width necessary to provide a sustainable trail that reduces cut banks and achieves visual subordination from key viewing areas.
  - d. The depth of the trail cut banks will be as minimal as possible to provide appropriate grade and will not exceed twenty inches.
  - e. Cut banks will be seeded with native grasses until establishment. A list of native and recommended grass species has been attached to this decision.
7. Portions of the existing trail to be modified or deconstructed shall be revegetated with native grasses once the new trail segments are constructed and functional. A list of native and recommended grass species has been attached to this decision.
8. No existing trees are proposed to be removed as part of this proposal. The applicant will retain existing trees to the maximum extent practicable while new trail segments are being constructed.
9. Use of motorized vehicles on designated public use trails shall be prohibited, except for use by response agencies and their agents in an emergency.
10. If cultural resources are discovered during construction activities, all activities within 100 feet of the cultural resources shall immediately cease and the applicants shall notify the Gorge Commission within 24 hours of discovery and the State Physical Anthropologist, Dr. Guy Tasa at (360) 586-3534 or [guy.tasa@dahp.wa.gov](mailto:guy.tasa@dahp.wa.gov). The cultural resources shall remain as found and further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.

11. 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.
12. The applicant shall notify the Gorge Commission within 30 days of project completion to arrange for an inspection to confirm compliance with conditions of approval. Project completion means completion of all work on exteriors of structures (including painting).

DATED AND SIGNED THIS 29<sup>TH</sup> day of October 2018 at White Salmon, Washington.



Krystyna U. Wolniakowski  
Executive Director

#### **EXPIRATION OF APPROVAL:**

Commission Rule 350-81-044 governs the expiration of this Director's Decision.

***This decision of the Executive Director becomes void on the 29<sup>TH</sup> day of October 2020 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 18<sup>TH</sup> day of November 2018.***

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

**Attachments:**

Staff Report for C17-0016  
Approved site plan  
List of native grasses



APPROVED

KW  
10/29/18



## Lyle Cherry Orchard Trail Grading Plan

Columbia River Gorge Commission File No. C-17-0016

Submitted October 19, 2018

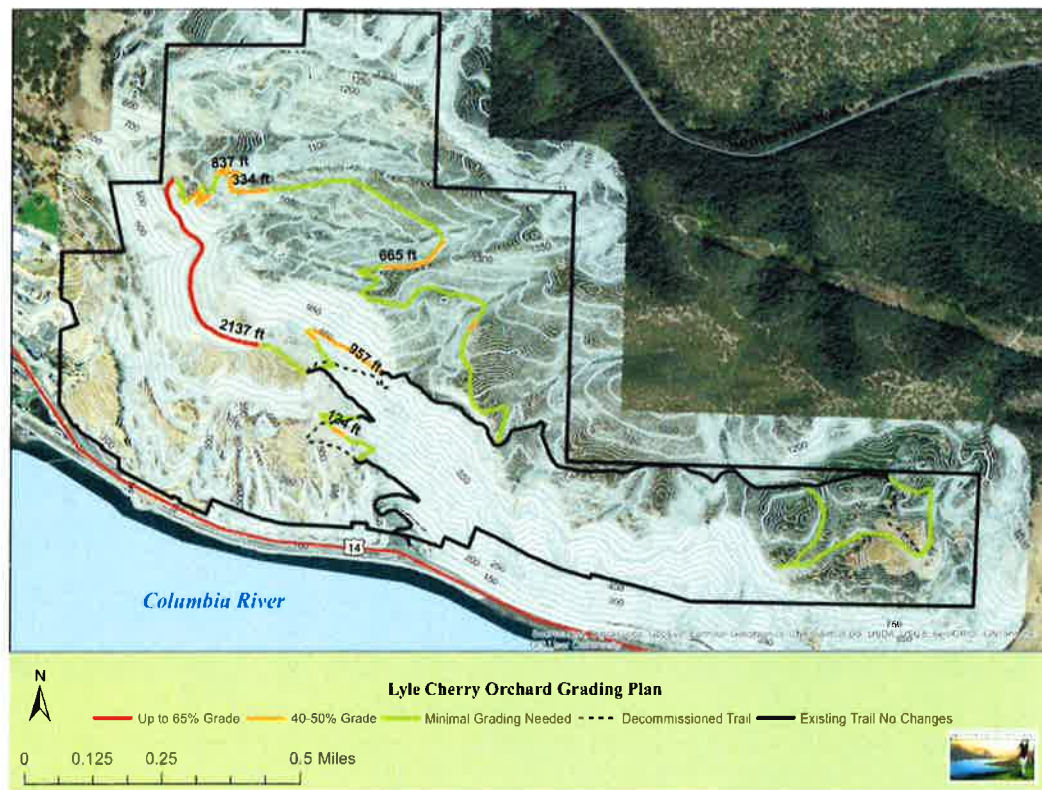
### **350-81-520(2)(aa):**

**All proposed structural development involving more than 200 cubic yards of grading on sites visible from key viewing areas shall include submittal of a grading plan. This plan shall be reviewed by the local government for compliance with key viewing area policies. The grading plan shall include the following:**

**(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:**

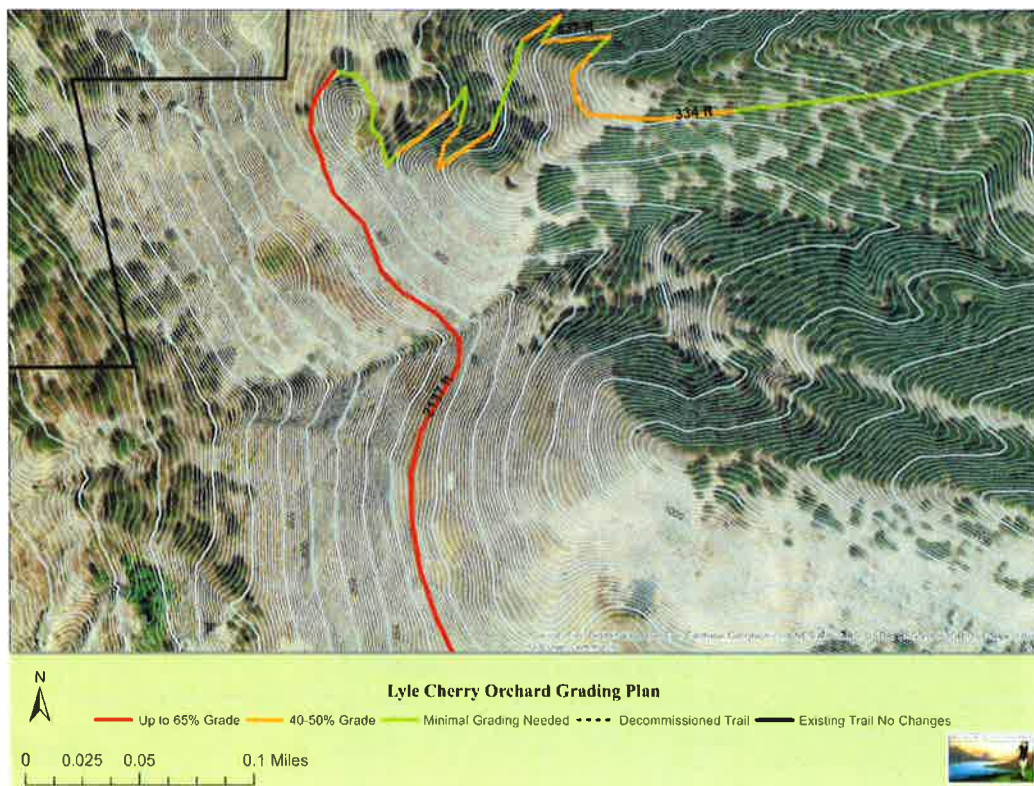
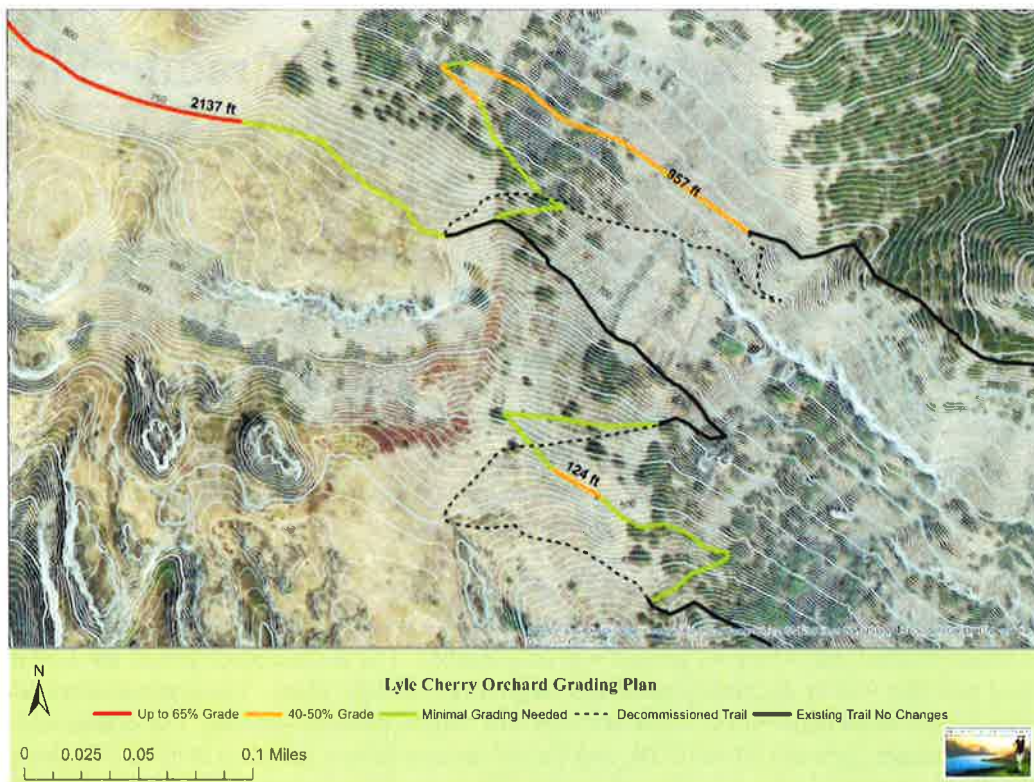
- (i) Existing and proposed final grades.**
- (ii) Location of all areas to be graded, with cut banks and fill slopes delineated.**
- (iii) Estimated dimensions of graded areas.**

The maps below illustrate the plans for trail construction at Lyle Cherry Orchard. All sections of constructed trail will be 3 feet wide and will be graded only when necessary. The black segments are sections of established trail where no ground will be disturbed. The dashed black pieces are 1.19 miles of established trail that will be decommissioned and no grading will take place. The green sections are areas of trail that have a slope under 40%. These sections will require minimal grading. The orange sections have moderate slopes between 40 and 50%, and the red sections have a grade up to 65%. The orange and red sections may require some cut bank grading, but fill slopes are not necessary in trail construction.

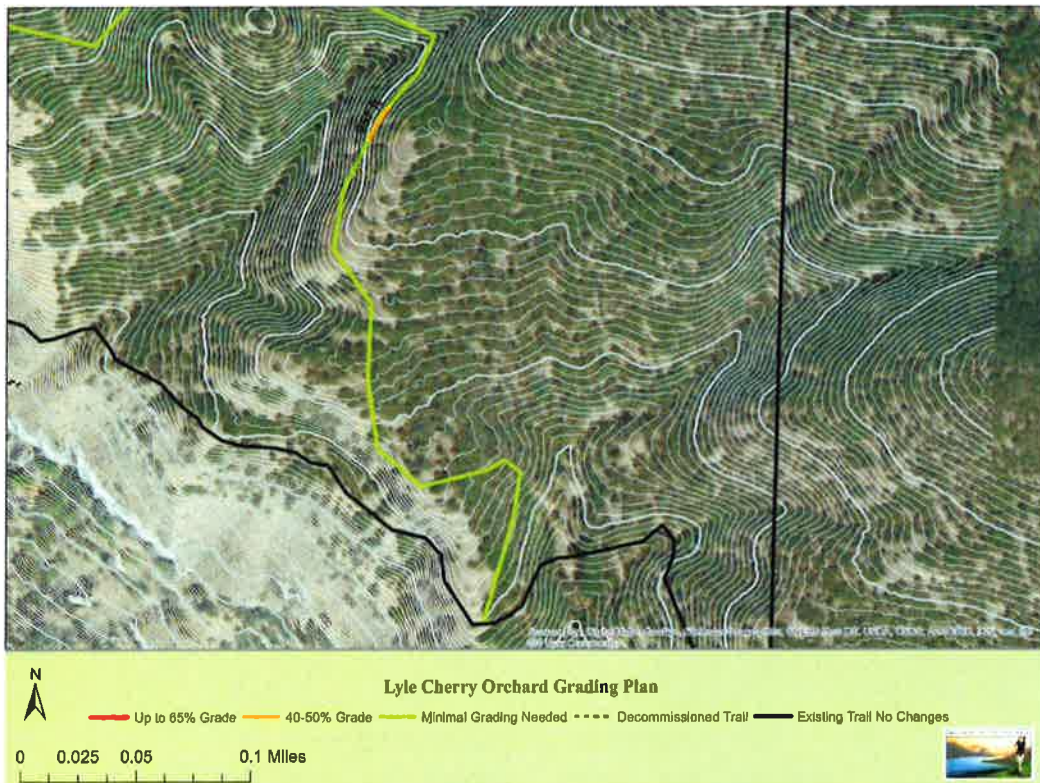
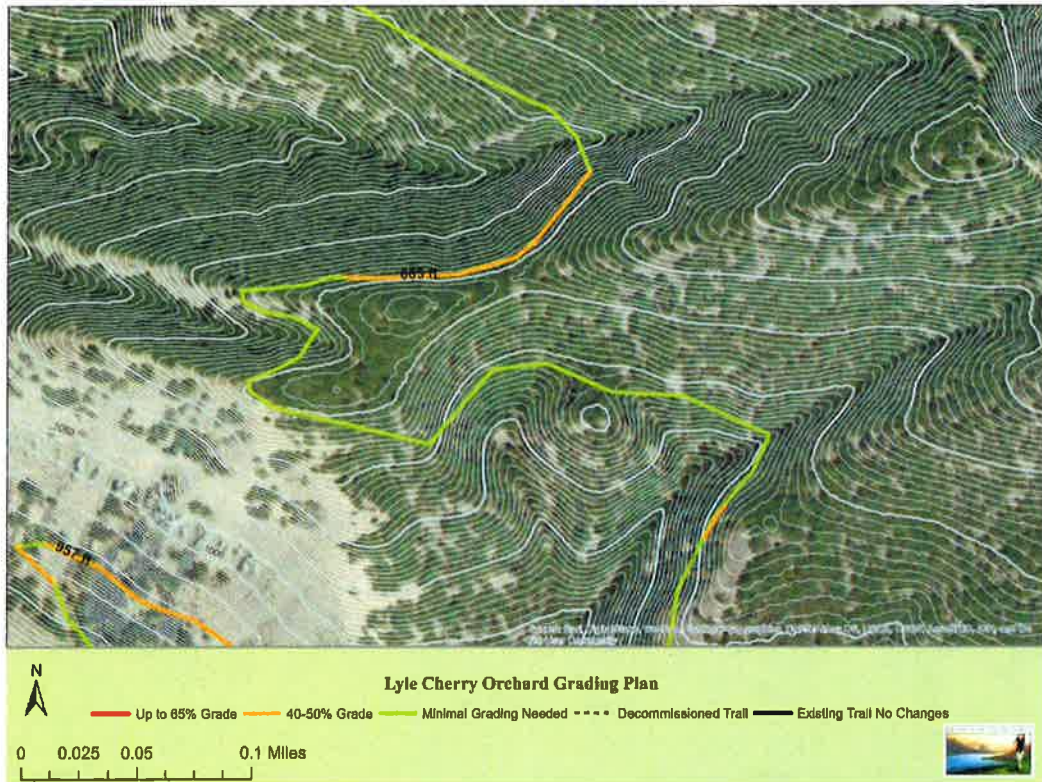




01/01/2011











**(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.**

To minimize erosion and reduce maintenance, WTA will construct a “full-bench” tread in all areas in which it is feasible to do so. A full-bench tread is one in which the walking surface (tread) is excavated and no fill is used- a best-practice for trail construction that is recommended by the U.S. Forest Service. The Forest Service *Trail Construction and Maintenance Handbook* states *“Trail professionals almost always prefer **full-bench** construction. Full-bench construction requires more excavation and leaves a larger backslope than partial-bench construction, but the trailbed will be more durable and require less maintenance. You should use full-bench construction whenever possible.”* The trails will be constructed to leave a tread that is 3-ft wide, and will enable trail users to hike comfortably without stepping off the trail.

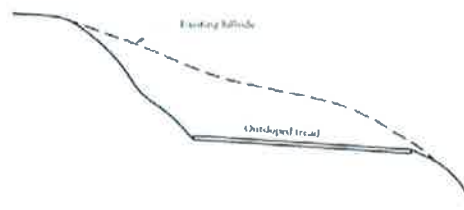


Figure 26 A full-bench trail is constructed by cutting the full width of the tread into the hillside. The tread needs to be out-sloped at least 5 percent.

*Full-Bench Trail Diagram: Image from Trail Construction and Maintenance Handbook (USFS, 2007).*



***(ii) An estimate of the total volume of material to be moved.***

The length of the green segments of the new trail- which will require minimal/no grading- are sections less than 40% slope, totaling 12,186. If it is assumed that the entire section has a mid-range grade of 20%, the cut bank for the green area would be around 6.5 inches or 0.54 ft. In these sections, it is expected to move around 0.81 cubic feet of material per every 3 foot wide cubic foot of linear trail. This would mean that for these sections, trail builders would be moving around 365 cubic yards of material. However, most parts of this trail will not be graded at all. Because they are to be built on a flat grade, around 2/3 of the length of the green segments will not be graded, so we estimate that only 121 cubic yards of material would be moved in these sections area of new trail.

The length of the orange segments of the trail- which will require moderate grading- are sections with between 40-50% slope, totaling 2,917 ft. If it assumed that the entire section has a mid-range grade of 45%, the cut bank for the orange area would be around 15 inches or 1.25 ft. In these sections, it is expected to move around 1.9 cubic feet of material per every 3 foot wide cubic foot of linear trail. This would mean that for these sections, trail builders would be moving around 205 cubic yards of material.

The length of the red segments of the trail- which will require deeper cuts- are sections with up to 65% slopes, totaling 2,137 ft. If it is assumed that the entire section has a mid-range grade of 55%, the cut bank for the red area would be around 16 inches or 1.33 ft. In these sections, it is expected to move around 2 cubic feet of material per every 3 foot wide cubic foot of linear trail. This would mean that for these sections, trail builders would be moving around 158 cubic yards of material.

**In total, this would mean that the total volume of material moved would be around 484 cubic yards.**

***(iii) The height of all cut banks and fill slopes.***

The depth of the proposed trail cut will be as minimal as possible to provide the appropriate trail grade, but will depend on the grade of the slope on which each section of trail is built. In some areas, where the existing grade is flat or was previously graded, no cuts into a slope will be required. On steeper side slopes of 40% - 84% grade, cuts between 14 and 20 inches will be made for a trail that is 3-ft wide. Because the slopes of this trail do not exceed 65% grade anywhere along the proposed new trail, we will leave 20 inches as our worst case scenario, but it is likely the cuts will not exceed 17.5 inches. WTA will scatter (broadcast) excavated soil so that it settles into, rather than burying, surrounding vegetation. WTA will use excess fill materials to fill low spots in the trail in limited locations.

***(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.)***

The WTA will compact the ground as needed during construction to stabilize the new trail using hand held tools such as dirt tampers. Although the trail will be built in a region with relatively little rainfall (approximately 14 inches annually, compared with 30 inches in Hood River, OR/White Salmon, WA and 77 inches in Cascade Locks, OR, with most rainfall in November through February), WTA will take routine measures to minimize erosion, such as building a finished tread with frequent grade reversals, in which the drainage is self-maintaining and which will require minimal care.

**(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.**

As stated above, the WTA will scatter excavated soil so that it settles into, rather than burying surrounding vegetation. Revegetation of areas of former trail will be done using seed native to the Columbia River Gorge. Species include: Idaho fescue, prairie Junegrass, blue wildrye, narrow-leaf milkweed, Columbia desert parsley, pungent desert parsley, Oregon sunshine, Western blue flax, heartleaf buckwheat, strict buckwheat, bicolor lupine, broadleaf lupine, desert shooting stars, and bicolored cluster lily. Species list will vary depending on availability by local suppliers. It will be seeded in the fall so that it is established by the spring by the fall and winter rains.

**(vi) A description of any other interim or permanent erosion control measures to be used.**

WTA will mostly construct a rolling contour trail (with frequent grade reversals) on which water during wetter seasons will sheet across the trail and do little damage. These are best-practices for trail construction. Grade reversals are described by the U.S. Forest Service in the *Trail Construction and Maintenance Handbook*: "Grade reversals take advantage of natural dips in the terrain. The grade of the trail is reversed for about 3 to 5 meters (10 to 15 feet), then "rolled" back over to resume the descent. Grade reversals should be placed frequently, about every 6 to 15 meters (20 to 50 feet). A trail that lies lightly on the land will take advantage of natural dips and draws for grade reversals." No stairs are proposed. In an extreme case, if torrential rainfall was predicted, silt fences or possibly straw wattles would be implemented to deal with excess runoff in trail construction areas.



## 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

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

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

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

Herbaceous plants can be added after seeding:

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

**Notes:**

**Application Method:** Hand or machine, ideally in the fall. Machines such as hydromulchers, usually have agitators which keep the seed well mixed and applied evenly. In hand-seeding operations it is more difficult to achieve an even distribution of seed. For this reason more lbs /acre have been prescribed to compensate for inadvertent patchiness. Hand seeding should utilize two passes of the area: 1 pass for small, fine seed such as slender hairgrass, and a second pass for the larger seeded species such as blue wildrye and California 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.

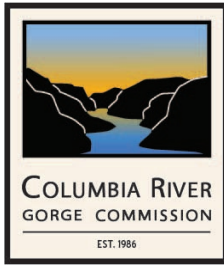
Using weed-free straw mulch is an important component in our strategy to control the spread of invasive species on the Forest. Weed-free straw is still a developing resource and its availability may be variable. Finding it will likely take some looking around. Oregon and Washington currently have weed-free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

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

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

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





## STAFF REPORT

**CASE FILE:** C17-0016

**PROPOSAL:** The Columbia River Gorge Commission received an application to expand the existing Cherry Orchard Trail, to decommission and realign segments of the trail, to install nine signs, and to establish three new viewpoint overlooks.

**APPLICANT:** Friends of the Columbia River Gorge Land Trust

**LANDOWNER:** Friends of the Columbia River Gorge Land Trust

**LOCATION:** The subject parcels are located directly to the east of Lyle, WA, in Sections 1 and 2, Township 2 North, Range 12 East, Lyle, Washington. Klickitat County Tax Lot Number 02120200000500 is 69.60 acres, 02120200001000 is 34.3 acres, 02120200000400 is 158.9 acres, 03123500002000 is 10 acres, 02120200000300 is 10 acres, 03123500001900 is 10 acres, 02120200000200, 02120100000300 is 110.7 acres.

### LAND USE

**DESIGNATION:** The subject parcels are in the General Management Area and designated Small Woodland, Large-scale Agriculture and Small-scale 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 the Friends of the Columbia River Gorge, Klickitat County Planning Department, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes of the Umatilla Indian Reservation.

## FINDINGS OF FACT:

### A. Land Use

1. The Land Use Designation map in the Management Plan for the Columbia River Gorge National Scenic Area designates the subject parcel Large-Scale Agriculture, Small-Scale Agriculture, and Small Woodland. The applicant proposes a loop trail on land designated Small-Scale Agriculture and Small Woodland. Several reroutes of the existing trail are proposed on land designated Large-Scale Agriculture, Small-Scale Agriculture, and Small Woodland. Two viewpoints are proposed on land designated Small Woodland, and one other on land designated Large-Scale Agriculture. The proposal also includes nine signs. Three signs address habitat protection and are on land designated Large-Scale Agriculture. Six additional signs address trail stewardship.

The applicant originally submitted its application on January 25, 2017. Throughout 2017, Commission staff worked with the applicant on avoiding sensitive wildlife and plant species. The applicant submitted a revised site plan on December 12, 2017. Changes to the site plan included removing one of the four originally proposed viewpoints and rerouting portions of the proposed trail to avoid the sensitive species. The notice of the application included the revised site plan, not the original site plan in the January 2017 submittal.

2. The existing trailhead and user parking occur at a wide shoulder along the north side of State Route 14, just east of Lyle, WA. From the highway, the trail follows a seasonal drainage depression northwest up a steep slope. The existing trail then continues northwest and follows the ridge line behind a large outcrop of basalt. From that point, it then turns east away from the cliffs where it terminates at an old cherry orchard.
3. The Cherry Orchard Trail was informally constructed in 1992 and legalized in Director's Decision C95-0044. That 1995 review approved reconstruction of segments of the informal trail, and the placement of a fence.
4. Director's Decision C98-0002 approved additional improvements including the installation of signs, reconstruction of a fence stile, timber and rock structures to stabilize the trail, drainage features, and rerouting and grading of several sections of the trail to prevent erosion.
5. Director's Decision C07-0008 approved a reroute to segments of the first .85 miles of trail, including the trailhead, to reduce overall grade and prevent future erosion problems.
6. Commission Rule 350-81-082(4)(a) states:

*Except as otherwise provided, any change to an existing use or modification to the exterior of an existing structure shall be subject to review and approval pursuant to Commission Rule 350-81.*

Commission Rule 350-81-020(151) defines "structure" as:

*That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. This includes, but is not limited to, buildings, walls, fences, roads, parking lots, signs, and additions/alterations to structures.*

The proposed development modifies the existing trail by constructing a 2.01-mile loop extension trail on the west end of the property, decommissioning 1.19 miles of existing trail segments, and replacing the decommissioned segments with a total of 1.27 miles of reroutes. The existing trail is 2.29 miles, and the proposed development increases the length of the trail by 2.09 miles. Approximately 1.10 miles of existing trail remain unaltered. The proposed reroutes are intended



to prevent future erosion, improve trail sustainability and create a less difficult hike for trail users. The trail is intended as a foot path exclusively; bicyclists, horseback riders and users of motorized vehicles are prohibited from using the trail.

The trail extensions and reroutes are designed to follow gradual topography, prevent erosion and decrease steep slopes. This design results in minimal cut banks and fill slopes. In areas where the trail is flat or already graded, there are no cut slopes. The new sections of trail measure 36 inches wide, constructed and maintained by the Washington Trails Association (WTA). WTA will construct the trail by hand using “full-bench” tread to minimize erosion and reduce maintenance, and following the guidelines in the U.S. Forest Service handbook, *Trail Construction and Maintenance* (2007). A full-bench tread trail has a level excavated walking surface with no fill. The depth of the proposed trail cut is as minimal as practicable to provide appropriate trail grade but depends on the grade of the slope on which each section of trail is built. Most of the new trail will be on flat or gentle slopes that do not require cut banks and fill slopes. Approximately 1,237 feet of the trail, all in the western portion, will be on steep slopes of up to 60% percent grade. The applicant has proposed no stairs; on these steep grades, cuts between 14 and 20 inches may necessary for a 3-foot-wide trail.

The development also includes three viewpoints, each graveled, 10 feet in diameter, and including as many as three boulders for seating (e.g. Columbia River basalt, 2-ft tall x 3-ft wide x 4-ft-wide).

Also proposed are nine signs located throughout the length of the trail. Three signs address habitat protection and were developed in consultation with WDFW. The other six signs address trail stewardship and are reviewed in Section E: Recreation Resources.

7. Commission Rule 350-81-200(1)(j) allows recreation development on lands designated Large-Scale and Small-Scale Agriculture, subject to the “Approval Criteria for Specified Review Uses” (350-81-220), the Recreation Intensity Class provisions (350-81-610), compliance with the guidelines for the protection of scenic, cultural, natural and recreation resources (350-81-520 through 350-81-620) and the Recreation Development Plan (Management Plan, Part III, Chapter 1).

Commission Rule 350-81-020(47) defines “development” as:

*Any land division or structure, including but not limited to new construction of buildings and structures, and mining, dredging, filling, grading, paving, and excavation.*

Compliance with the Recreation Intensity Class provisions (Commission Rule 350-81-610) and the Management Plan’s Recreation Development Plan (Management Plan, Part III, Chapter 1) are discussed in Section E below. Compliance with the guidelines for the protection of scenic, cultural, natural, and recreation resources are discussed in Sections B through E below.

8. The approval criteria for Specified Review Uses on Lands Designated Large-Scale or Small-Scale Agriculture are at Commission Rule 350-81-220. The proposed project must be consistent with the following criteria:

Commission Rule 350-81-220(1)(a) states:

*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.*

The applicant owns several contiguous parcels. During site visits, staff observed a few signs of previous cattle grazing near the already established trail and in the areas of the proposed trail. Staff observed the entire site and found no evidence of current cattle grazing activities. There were remnants of stock fences, fence poles, and cattle guard crossings, but the fencing had been removed, and many other elements were in a state of disrepair.

The other adjacent parcels are mix of private and public lands. To the east, the Cherry Orchard property is bordered by parcels owned by the Washington Department of Natural Resources. To the west, the Cherry Orchard property borders the town of Lyle, WA and its Urban Area Boundary. To the north, the Cherry Orchard property is surrounded by three parcels, all under independent private ownerships. Currently, grazing activities take place on one nearby parcel that is completely fenced off from adjacent lands and the subject property. No crop cultivation currently occurs on any adjacent lands.

Commission Rule 350-81-220(1)(b) states:

*The use will be sited to minimize the loss of land suitable for the production of crops or livestock.*

Commission Rule 350-81-020(154) defines “suitability” as:

*The appropriateness of land for production of agricultural or forest products or for recreation, considering its capability for production; surrounding uses and features associated with development; compatibility with scenic, cultural, natural and recreation resources; compatibility among uses; and other cultural factors, such as roads, powerlines, dwellings, and size of ownership.*

The proposed trail results in limited development on the subject parcel. While the new segments of the trail expand into areas of the parcel not previously developed, the new trail does not decrease the amount of land suitable for the production of crops or livestock on the subject parcel. The site is characterized by steep slopes which limit the suitability for growing crops. No crop cultivation or grazing activity occurs on the subject parcel, although there are remnants of past cultivation and grazing activity, including the namesake abandoned cherry orchard near the eastern terminus of the trail. This past use suggests the property is capable of growing crops; however, the current use of the property as a recreation site makes the site not suitable because the presence of people would interfere with agricultural practices, such as irrigation, pest control, and harvest. In addition, having people on site increases the risk of introducing diseases, weeds, and other pests; increases the risk of theft of crops; and domestic pets running disturbing crops.

In addition, recreational use at this time does not preclude future agricultural use if the recreation use ends. The soils will remain; the applicant will be managing for weeds and other pests, which will help maintain the land; and some of the new trail segments follow unofficial preexisting livestock and wild game trails, which livestock could use in the future.

Some grazing activity is occurring on an adjacent parcel to the northwest. Commission Decision C17-0006 approved a new well

During a site visit for a project on a parcel adjacent to the northwest of the Cherry Orchard property, for project C17-0006, staff encountered a cattle fence and saw evidence of grazing. The proposed trail will be approximately 300 feet from that parcel. Hiking is compatible with grazing activity. For example, on nearby lands where recreation and cattle grazing use occur on the same parcel, mitigation measures such as seasonal trail closures or cattle signs have allowed for the coexistence of recreational opportunities and cattle grazing.

The proposed trail improvement project does not result in the loss of land suitable for agriculture, consistent with Commission Rule 350-81-220.

9. Commission Rule 350-81-270(1)(q) allows recreation development on lands designated Small Woodland, subject to compliance with the Recreation Intensity Class provisions (350-81-610), Recreation Development Plan (Management Plan, Part III, Chapter 1), and the guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620)

The proposed development is a recreational use. Compliance with the Recreation Intensity Class provisions and the Management Plan's Recreation Development Plan are discussed in Section E below. Compliance with the guidelines for the protection of scenic, cultural, natural, and recreation resources are discussed in Sections B through E below.

#### Conclusion:

The proposed new trail and associated signage is consistent with the land use standards and may be permitted if the use is consistent with the recreation intensity classes provisions and Recreation Development Plan in the Management Plan, and if the use does not adversely affect scenic, cultural, natural, or recreation resources. These additional reviews are below.

#### B. Scenic Resources

1. Commission Rule 350-81-520(1)(a) and (b) contain scenic resource protection guidelines for new buildings and roads. No new buildings or roads are part of this application. Therefore, Commission Rule 350-81-520(1)(a) and (b) do not apply to the proposed development.
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.*

The applicant proposes to reseed and revegetate areas of the former trail using seeds native to the Columbia River Gorge. Below, the findings addressing cumulative effects require the applicant to reseed and revegetate the former trail with native grasses and be responsible for the survival and maintenance of the plantings, and impose a condition of approval to ensure the applicant does so. The applicant proposes to level the old trail by moving soil adjacent to the trail to help level and revegetate the decommissioned segments of trail. A list of native and recommended grass species has been attached to this decision. The applicant proposes to manage all non-native plants including Yellow Star Thistle, locust, blackberry and Tree of Heaven. The applicant does not propose to remove any trees. With the condition of approval, the trail modifications are consistent with Commission Rule 350-81-520(l)(c).

3. 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 Settings Map in the *Management Plan for the Columbia River Gorge National Scenic Area* classifies parts of the subject parcel as Grassland and Oak-Pine Woodland. Compatible Recreation Uses in the Grassland setting include resource-based recreation uses of a very low-intensity nature including hiking. Compatible Recreation Uses in the Oak-Pine Woodland landscape setting include resource-based recreation uses of varying intensities, although most are of a low-intensity nature (such as trails or small scenic outlooks).



The applicant submitted a site plan that contains the necessary information to determine compliance with the landscape settings requirements. Findings B.16 through B.22 address the landscape settings requirements. The proposed development is consistent with Commission Rule 350-81-520(1)(e).

4. Commission Rule 350-81-520(2) contains guidelines that affect new buildings and structures that are visible from Key Viewing Areas (KVAs).

As explained in Finding B.6, segments of the proposed trail are topographically visible from five Key Viewing Areas: Washington State Route 14, the Columbia River, Interstate 84, the Historic Columbia River Highway, the Rowena Plateau and the Nature Conservancy Viewpoint. Therefore, guidelines of Commission Rule 350-81-520(2) apply to the proposed development.

5. Commission Rule 350-81-520(2)(b) requires new development to be visually subordinate to its setting when viewed from KVAs. Consistency with Commission Rule 350-81-520(2)(b) is discussed in Finding B.6 through B.19 below.

6. Commission Rule 350-81-520(2)(c) states:

*Determination of potential visual effects and compliance with visual subordination policies shall include consideration of the cumulative effects of proposed developments.*

Commission Rule 350-81-020(40) defines “cumulative effect” 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 land contains dramatic topography with steep basalt cliffs and large rock outcroppings. It is vegetated with a mix of oak woodlands and various shrubs and grasses. The existing trail was formally recognized in Director’s Decision C95-0044. The only existing development on the parcel includes the trail, associated signs and fencing.

As proposed, the sections of trail to be rerouted follow more gradual topography resulting in less dramatic cut banks, as opposed to the existing trail which climbs more steeply through the valley. The proposed trail extensions follow the gradual topography of the area and do not result in dramatic cut banks. The proposed trail is approximately 3’ wide.

For an analysis of cumulative effects, staff observed the site from Rowena Plateau, at the circular viewpoint off the Historic Columbia River Highway. From the viewpoint at Rowena Plateau the viewer is approximately 1.3 miles from the western end of the proposed loop trail, 1.6 miles from the trailhead, and 2.6 miles from the eastern terminus of the trail. The viewer is standing at approximately 700 ft. elevation and has an unobstructed view of the lower, middle and much of the upper segments of the trail. The viewer can see the town of Lyle, WA to the west of the Cherry Orchard property and to the old cherry orchard at the east end. The landscape contains dramatic topography with steep basalt cliffs and large rock outcrops, vegetated with a mix of oak woodlands and various shrubs and natural grasses. The lower elevations of the landscape are more densely forested than the middle elevations which disperse into grasses, rocky outcrops and clusters of trees before becoming more densely forested with oak woodlands at the highest elevations.

From Rowena Plateau, staff could not observe the trail unaided. At the time of the observation, in August of 2018, the grass on the parcel was dormant and the colors in the landscape were

primarily browns and tans. Given the current limited visibility of the trail from Rowena Plateau, the cumulative effects of the proposed trail will not have adverse effects. The trail will be potentially visible from multiple KVAs, but from a distance of over a mile the trail segments visible from KVAs are not visually dominant in relationship to their surroundings and do not noticeably contrast with the surrounding landscape.

The Gorge Commission understands that the Cherry Orchard Trail may someday be included in a loop trail around the Gorge. That has been a stated goal from the applicants. Their *Gorge Towns to Trails* program envisions a 200-mile trail system wrapping around the Columbia Gorge creating a European-style trekking model.<sup>1</sup> The Management Plan for the Columbia River Gorge National Scenic Area states that a loop trail around the Scenic Area is an objective for trails and pathways in the Scenic Area (Management Plan I-4-10 & III-1-5). If a loop trail is established using segments of the Cherry Orchard Trail, the Cherry Orchard Trail would be part of the cumulative effect of the larger loop trail. The loop trail around the Scenic Area would have cumulative effects because from any given KVA, a viewer may see the visual impact of the trail in the foreground, midground, background. While the visual impact of a trail will be relatively small amongst the landscape and will not create an adverse effect, the trail will be visible from various KVAs and create a cumulative visual impact. While the Cherry Orchard Trail is visually subordinate from KVAs, it would be part of the cumulative impact of the loop trail and its effects on the landscape.

To mitigate for adverse effects that could arise from the proposed trail, a condition of approval requires the applicant to close and reseed the existing trail once the new trail segments are constructed and functional. A list of recommended grass seed mixes is attached to this decision. No existing trees are proposed to be removed, however another condition of approval is included requiring the applicant to retain the existing trees to ensure ongoing visual subordination.

With conditions of approval to reseed closed trail segments and to retain existing screening vegetation, the proposed trail modifications are visually subordinate with the surrounding landscape and consider cumulative scenic resource impacts, consistent with Commission Rule 350-81-520(2)(c).

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

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

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

*(i) The amount of area of the building site exposed to key viewing areas.*

*(ii) The degree of existing vegetation providing screening.*

*(iii) The distance from the building site to the key viewing areas from which it is visible.*

*(iv) The number of key viewing areas from which it is visible.*

*(v) The linear distance along the key viewing areas from which the building site is visible (for linear key viewing areas, such as roads).*

*The amount of area of the building site exposed to key viewing areas.*

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<sup>1</sup> Friends of the Columbia Gorge. <https://gorgefriends.org/conserv-connect/the-project.html>

The site of the proposed modifications is intermittently visible from five KVAs. Topography screens the trail from the far west and east. No topography exists between the trailhead and the edge of State Route 14 to the immediate south and in some places along the Columbia River and I-84. The upper segment of the proposed trail that pass through primarily grasses are topographically visible from the Historic Columbia River Highway, the Rowena Plateau and the Nature Conservancy Viewpoint. For brief moments while traveling along I-84 and SR-14, sizable segments of the project site are topographically visible.

In sum, the site is visible from five KVAs and the proposed extensions are will be visible in the foreground from SR 14 and the Columbia River, and in the middle-ground from I-84 and Historic Columbia River Highway, Rowena Plateau and the Nature Conservancy Viewpoint.

*The degree of existing vegetation providing screening.*

The lower segments of the trail are vegetated with a mix of oak woodland with shrubs and grasses. On the middle portion of the trail the vegetation thins to mostly grasses and poison oak with clusters of trees among rock outcrops. As one climbs higher in elevation walking along the newly proposed sections of trail, the vegetation thickens once more into an oak woodland. Existing vegetation provides some screening for the trail, but segments are still visible from KVAs. A condition of approval to retain the existing trees to the maximum extent possible is included in this decision to ensure ongoing visual subordination, consistent with this rule.

*The distance from the building site to the Key Viewing Areas from which it is visible.*

According to Commission maps, the trailhead is the closest point from which development is visible. The trailhead is located approximately 100 feet from State Route 14; 250 feet from edge of the Columbia River; 1.2 miles from Interstate 84 when viewed from the east, 1.8 miles from the Historic Columbia River Highway to the west, and approximately 1.5 miles from the Rowena Plateau and Nature Conservancy Viewpoint to the southwest.

*The number of Key Viewing Areas from which the site is visible.*

The site of the proposed trail modifications can be seen from a total of five KVAs: State Route 14 and the Columbia River in the foreground, Interstate 84, the Historic Columbia River Highway Rowena Plateau and Nature Conservancy Viewpoint in the middle-ground.

*The linear distance along the Key Viewing Areas from which the building site is visible.*

The trailhead and lower portion of the trail are topographically visible for approximately 0.2 miles while traveling on State Route 14 and the Columbia River. While driving on State Route 14 west of Lyle, WA, upper segments of the trail will be intermittently visible for 4.5 miles. Large segments of the trail are visible from Rowena Plateau and the Nature Conservancy Viewpoint, both of which are stationary viewpoints. Although hills screen most of the site from Interstate 84, it is visible intermittently for approximately 5.5 miles while driving. From the Historic Columbia River Highway, parts of the property are intermittently visible for a total of 9 miles.

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).*



The trail extensions and reroutes are designed to follow more gradual topography to prevent erosion and decrease steep slopes. This design results in most of the trail having only small or no cut banks and fill slopes. In the northwest corner, where the cut banks and fill slopes be the largest, the trail is mostly in a wooded area. This design ensures the new segments will not noticeably contrast with the surroundings and are visually subordinate. The three viewpoints have been sited using existing topography and trees for screening, consistent with Commission Rule 350-81-520(2)(d)(B)(i).

*(ii) Retention of existing vegetation*

Segments of the proposed trail are visible from the foreground and middle-ground of five KVAs. Substantial segments of the trail are visually subordinate to the surrounding landscape because of the screening provided by existing vegetation. The applicant does not propose to remove any trees. A condition of approval to retain the existing trees to the maximum extent possible is included in this decision to ensure ongoing visual subordination, consistent with Commission Rule 350-81-520(2)(d)(B)(ii).

*(iii) Design (color, reflectivity, size, shape, height, architectural and design details and other elements).*

The proposed trail extensions and reroutes do not include any support structures. All the signs proposed are dark earth tone colors. Portions of the new trail segments and the overlooks are the only visible development. As proposed, the new trail segments are 3 feet wide and the trail covers a total distance of approximately 4.38 miles. The proposed trail is gradual in nature and follows existing topography. Given this information, the proposed trail extensions and reroutes are visually subordinate with its setting, consistent with Commission Rule 350-81-520(2)(d)(B)(iii).

*(iv) New landscaping.*

As discussed above, the trail segments that will be decommissioned will be reseeded with native grass species and the existing screening trees shall be retained as conditions of approval. No new landscaping is required to be consistent with Commission Rule 350-81-520(2)(d)(B)(iv).

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

*New development shall be sited to achieve visual subordination from key viewing areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, sensitive plants, or sensitive wildlife sites or would conflict with guidelines to protect cultural resources. In such situations, development shall comply with this guideline to the maximum extent practicable.*

The proposed trail extensions and reroutes were sited to follow existing topography lines and reduce future erosion. The applicants submitted a topographic map showing the entire parcel, which shows the proposed trail and viewpoints with topographic lines. The two western viewpoints are located on the portions of the parcel that have the least slope facing south toward the key viewing areas. The eastern viewpoint is set back from 30 feet from the edge of the southern slope to reduce visibility from key viewing areas. All three viewpoints have been sited using existing topography and trees for screening. The trail has been sited to best achieve the protection of scenic, natural, cultural, and recreation resources. No existing trees are proposed to be removed. The trail did not need to be sited within the buffer zone of any wetlands, riparian areas, or sensitive plant and animal habitat to achieve visual subordination. Existing vegetation and topography provide screening, which helps ensure visual subordination, consistent with Commission Rule 350-81-520(2)(e).

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 subordination from key viewing areas.*

As explained above in Finding B.8, the trail extensions and reroutes have been sited using topography and existing vegetation to achieve visual subordination, consistent with this rule. The three viewpoints have also been sited using existing topography and trees for screening, consistent with Commission Rule 350-81-520(2)(f).

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).*

The applicant does not propose to remove any existing trees. However, to ensure visual subordination, a condition of approval is included requiring the applicant to retain existing tree cover to the maximum extent possible, consistent with Commission Rule 350-81-520(2)(g).

12. Commission Rule 350-81-520(2)(j) contains guidelines for new landscaping needed to screen the proposed development from KVAs. With a condition of approval to retain the trees, no new vegetation is required in this decision for screening purposes. Therefore, Commission Rule 350-81-520(2)(j) does not apply.

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

*Conditions regarding new landscaping or retention of existing vegetation for new developments on lands designated GMA Forest shall meet both scenic guidelines and fuel break requirements in 350-81-300(1)(a).*

Commission Rule 350-81-300(1)(a) provides fuel break requirements for buildings. No new buildings are proposed in this application. With conditions of approval to retain existing screening vegetation, no new screening vegetation is required. As proposed, the modified trail segments do not noticeably contrast with the surrounding landscape and are visually subordinate, consistent with Commission Rule 350-81-520(2)(k).

14. Commission Rule 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 Scenic Resources Implementation Handbook will include a recommended palette of colors.*

No buildings are proposed as part of this project. However, multiple signs are proposed. All signs proposed are designed utilizing colors listed in the *Scenic Resources Implementation Handbook* to be visually subordinate to the landscape. The proposed signs are also compliant with the interpretive signs and display specifications in Commission Rule 350-81-610: General Management Area Recreation Resource Review Criteria (See Section E).

15. Commission Rule 350-81-520(2)(aa) requires a grading plan for structural development involving more than 200 cubic yards of grading on sites visible from Key Viewing Areas.

This design results in minimal cut and fill banks, so segments do not noticeably contrast with their surroundings and are visually subordinate. In areas where the trail is flat or already graded, there

are no cut slopes. Washington Trails Association (WTA) will construct the trail following the guidelines in the U.S. Forest Service handbook, *Trail Construction and Maintenance* (2007). The depth of the proposed trail cut is as minimal as practicable to provide appropriate trail grade but depends on the grade of the slope on which each section of trail is built. The applicant has proposed no stairs; on steep grades with slopes of 40% - 80%, cuts between 14 and 20 inches may be necessary for a 3-foot-wide trail. The depth of the trail cut will be as minimal as possible to provide the appropriate grade.

16. The subject property has two landscape settings: Oak-Pine Woodland and Grasslands. Commission Rule 350-81-520(3) contains the landscape settings for the National Scenic Area and applicable development guidelines.
17. The Landscape Settings Map in the *Management Plan for the Columbia River Gorge National Scenic Area* classifies part of the subject parcel as Oak-Pine Woodland. Commission Rule 350-81-520(3)(c) contains the applicable guidelines for proposed uses in this landscape setting. Commission Rule 350-81-520(3)(c)(A) and (B) states:

- A. *Structure height shall remain below the tree canopy level in wooded portions of this setting.*
- B. *In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:*
  - (i) *At least half of any tree species planted for screening purposes shall be species native to the setting. Such species include Oregon white oak, ponderosa pine, and Douglas-fir.*
  - (ii) *At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.*

*For substantially wooded portions:*

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

*For treeless portions or portions with scattered tree cover:*

- (iv) *Structures shall be sited on portions of the property that provide maximum screening from key viewing areas, using existing topographic features.*
- (v) *Patterns of plantings for screening vegetation shall be in character with the surroundings. Residences in grassy, open areas or savannahs shall be partly screened with trees in small groupings and openings between groupings.*
- (vi) *Accessory structures, outbuildings, and access ways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures, and farm fields.*

New signs are the only structures proposed in this application located above ground level in this landscape setting. The trail extensions and reroutes are designed to follow more gradual topography to prevent erosion and decrease steep slopes. This design minimizes cut slopes and



fill banks so segments do not noticeably contrast with the surrounding landscape, consistent with this rule. With conditions of approval to retain existing screening vegetation, no new screening is required. As proposed, the new trail segments do not noticeably contrast with the surrounding landscape and are visually subordinate, consistent with Commission Rule 350-81-520(3)(c).

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

*Resource-based recreation uses of varying intensities may be compatible with this setting, although most are of low-intensity nature (such as trails or small scenic outlooks). More intensive recreation uses may be compatible where allowed by 350-81-610, although they are generally rare in this setting. As with Woodland settings, intensive recreation uses in Oak-Pine Woodlands may be compatible if widely scattered and not in large concentrations.*

The proposed trail modifications create a less physically demanding hike for hikers and wildlife and wildflower viewers. As discussed in Sections A and E, the modifications are a low intensity use, compatible with this setting and therefore consistent with Commission Rule 350-81-520(c)(C).

19. The Landscape Settings Map in the *Management Plan for the Columbia River Gorge National Scenic Area* classifies part of the subject parcel as Grasslands. Commission Rule 350-81-520(3)(d) contains the applicable guidelines for proposed uses in this landscape setting. Commission Rule 350-81-520(3)(d)(A) and (B) states:

- A. *Accessory structures, outbuildings, and access ways shall be clustered together as much as possible. Exceptions to this guideline are permitted where necessary for farming operations.*
- B. *In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:*
  - (i) *Structures shall be sited on portions of the property that provide maximum screening from key viewing areas, using existing topographic features.*
  - (ii) *Lower structures that emphasize horizontal lines and blend with this sweeping landscape should be encouraged rather than very tall structures.*
  - (iii) *Planting of trees for screening shall not be extensive, in character with the openness of this setting. Where used, screening vegetation shall either tie in with nearby riparian vegetation in seasonal drainages or emulate windrows. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include Oregon white oak, Lombardy poplar, black locust, black cottonwood (wet locations), Russian olive and ponderosa pine.*

The trail extensions and reroutes are designed to follow more gradual topography to prevent erosion and decrease steep slopes. This design results in minimal cut slopes and fill banks and is visually subordinate to its landscape setting, consistent with this rule. New signs and boulders for seating are the only project elements proposed in this application located above ground level. With a condition of approval to retain existing screening vegetation, no new screening is required.

As proposed, the new trail segments do not noticeably contrast with the surrounding landscape and are visually subordinate, consistent with Commission Rule 350-81-520(3)(d)(A) & (B).

20. Commission Rule 350-81-520(3)(d)(C) states:

*Resource-based recreation uses of a very low-intensity or low-intensity nature that occur infrequently are compatible with this setting, and include hiking, hunting and wildlife viewing.*

The proposed trail modifications create a less physically demanding hike for hikers and wildlife and wildflower viewers. As discussed in Sections A and E, the modifications are a low intensity use, compatible with this setting and therefore consistent with Commission Rule 350-81-520(d)(C).

Conclusion:

With the implementation of conditions to revegetate decommissioned trail segments and retain the existing screening trees the proposed development is consistent with the applicable policies of the Management Plan and guidelines in Commission Rule 350-81-520 that protect scenic resources in the National Scenic Area.

C. Cultural Resources

1. The trail is located in a high probability area for cultural resources and is considered a large-scale use pursuant to Commission Rule 350-81-540. The trail was previously surveyed for sensitive cultural resources in Director's Decisions C95-0044-K-G-20, C98-0002-K-G-20 and C07-0008-K-G-20. Commission Rule 350-81-540(1)(c)(A)(i) requires a cultural resource survey for all proposed uses located within 500 feet of a known cultural resource.

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

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

The applicant hired Melissa Darby, M.A., with Lower Columbia Research and Archeology, to conduct the reconnaissance survey. Between March 31, 2016 and May 5, 2016, she conducted field work in the area of the proposed development in accordance with Commission Rule 540(1)(c)(F).

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

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

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

Ms. Darby submitted the required reconnaissance survey on May 9, 2016. Ms. Darby concluded that the proposed trail extensions and reroutes would have no impact on resources in the area.

- 4. The Cultural Resource Reconnaissance Survey was presented to Chris Donnermeyer, Heritage Program Manager for the U.S. Forest Service Scenic Area Office. Mr. Donnermeyer reviewed the report for compliance with the requirements for reconnaissance surveys and survey reports for large-scale uses in Commission Rules 350-81-540(1)(c)(F) and (G) and submitted comments in a letter on May 4, 2018. Mr. Donnermeyer concurs with Ms. Darby's findings that the proposed trail has no effect on known cultural resources and agrees that no additional archeological work is necessary.
- 5. Pursuant to Commission Rule 350-81-540(2)(b)(A), a copy of Ms. Darby's report and Mr. Donnermeyer's letter were sent to the State Historic Preservation Officer and Tribal Governments on May 7, 2018 for comment.



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

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

Comments were received from the Warm Springs during the 30-day comment period. Comments were in concurrence with the findings of Ms. Darby and Mr. Donnermeyer. The Confederated Tribes of the Umatilla requested an Inadvertent Discovery Plan be implemented and that the four Treaty Tribes be notified if archeological deposits or human remains are encountered during construction activities. Commission Rule 350-81-540(6) and (7) address inadvertent discoveries.

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 requiring adherence to these measures if human remains are discovered is included in this Director's Decision.

#### Conclusion:

With conditions to protect unknown cultural resources or human remains discovered during construction, the proposed development is consistent with the guidelines in Commission Rule 350-81-540 that protect 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. There are no wetlands, or wetlands buffer zones on the subject parcel. According to Commission maps, the closest wetland is located over 1,000 feet away from nearest segment of the trail. Commission Rule 350-81-560 does not apply.
3. Commission Rule 350-81-020(150) defines streams 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.*

According to Commission inventories, the applicant proposes that the trail cross three streams. Director's Decision C07-0008 concluded that the streams in the area were not streams but rather ephemeral drainage depressions that only channel into streams near the bottom of the trail after elevated levels of seasonal drainage or large storm events.

Staff conducted site visits to verify the location of the stream channels and ordinary high-water marks. As verified in the field, no defined stream channels exist where trail modifications are proposed.

After consulting with Diane Hopster, Hydrologist for the Forest Service Scenic Area Office, Commission Staff concluded that the mapped intermittent streams in the Commission inventories are considered dry, and do not require a stream buffer or associated mitigation.

Given this information, the ephemeral drainages from the upper valleys of the area do not meet the Commission's definition of stream.

4. Commission Rule 350-81-570(7) requires a 50-foot stream buffer as measured from the ordinary high-water mark. As proposed, the trail modifications do not occur within the buffer zones of any streams, consistent with Commission Rule 350-81-570(7).
5. The established trail crosses by vernal pond or pool created by an earthen dam. Commission Rule 350-81-570(7)(C) requires a buffer zone of 75 feet pursuant to Commission Rule 350-81-560(7)(c)(A). No trail construction or reconstruction may occur within 75 feet of the vernal pond. The subject trail use in the pond buffer zone was approved in Director's Decision C95-0044. The closest proposed trail modifications take place at least 190 feet from the pond and are consistent with 350-81-570 because the buffer zone is not disturbed by the proposed developments.
6. The Gorge Commission's sensitive wildlife inventory shows the trail within 1,000 feet of Peregrine Falcon nesting sites, deer and elk winter range and shallow water fish habitat in the Columbia River. Commission Rule 350-81-580(1)(a)(A) defines sensitive wildlife areas to include these areas.
7. Commission Rule 350-81-580(2)(b) requires a field survey to identify sensitive wildlife areas or sites for recreation facilities that contain parking for more than 10 cars. Field surveys are required to be conducted by a professional wildlife biologist hired by the project applicant to cover that entire project area and describe sensitive wildlife areas. The sensitive wildlife areas are to be identified on the site plan map.

In October 2013, William Weiler, MS, Environmental Resource Management, completed a Wildlife Survey and Report for the Cherry Orchard Trail Property. The report identified Peregrine Falcon nesting sites, which were incorporated into the site plan map.

8. Commission Rule 350-81-580(4)(a) requires the Gorge Commission to notify the Washington Department of Fish and Wildlife (WDFW) when a new development or land use is proposed within a sensitive wildlife area. Staff forwarded a copy of the application and the *Wildlife Survey and Report for Cherry Orchard Trail* on October 18, 2017.
9. 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.*

Staff forwarded the Wildlife Survey and Report to Stefanie Bergh and Amber Johnson with WDFW to verify any impacts to Peregrine Falcon nesting sites. On October 20, 2017, staff met with agents from both WDFW and Friends of the Columbia Gorge to discuss potential impacts and determine mitigation actions. At that time, WDFW concluded that signs on the trail near Peregrine Falcon nesting sites the best course of action to not compromise the integrity of the sensitive areas, consistent with Commission Rule 350-81-580(4)(c).

10. Commission 350-81-590 contains guidelines for the protection of sensitive plant species. The trail is in an area that contains a diverse collection of wildflowers throughout the spring and summer months. Several sightings of rare and endemic wildflowers have been documented near the trail according to Commission resource inventory maps. Of these reports, *Meconella oregana*, a state listed endangered species, had been reported to exist near the trail.
11. Commission Rule 350-81-590(2) requires a field survey to identify sensitive plants for recreation facilities that contain parking areas for 10 or more cars. Field surveys are required to be conducted by a person with recognized expertise in botany or plant ecology hired by the project applicant. Field surveys must identify the precise location of the sensitive plants and delineate a 200-foot buffer zone. The results of a field survey shall be shown on the site plan map.

In July 2013, Krista Thie, a botanist hired by Friends of the Columbia Gorge, completed a rare plant survey for the Cherry Orchard property and provided it to the Gorge Commission for review. All of the instances of *Meconella oregana* were identified on the site plan with a 200-foot buffer.

12. Commission Rule 350-81-590(4)(a) states:

*Site plans shall be submitted to the Oregon or Washington Natural Heritage Program by the Executive Director. The Natural Heritage Program staff will review the site plan and their field survey records. They will identify the precise location of the affected plants and delineate a 200-foot buffer zone on the project applicant's site plan. If the field survey records of the state heritage program are inadequate, the project applicant shall hire a person with recognized expertise in botany or plant ecology to ascertain the precise location of the affected plants.*

Staff provided the field survey to Jasa Holt of the Washington Natural Heritage Program (WNHP) in the fall of 2017 to provide the field survey and verify any potential impacts to sensitive plant species. Ms. Holt reviewed the survey and concluded that it was the most accurate survey of the area to date.

13. Commission Rule 350-81-590(4)(b) states:

*The rare plant protection process may conclude if the Executive Director, in consultation with the Natural Heritage Program staff, determines that the proposed use would be located outside of a sensitive plant buffer zone.*

After reviewing the site plan and report, staff concluded that all development will be located outside of the sensitive plant buffer zones for *Meconella oregana*. Pursuant to Commission Rule 350-81-590(4)(b) the plant protection process may conclude.

## Conclusion:

The proposed development is consistent with the guidelines of Commission Rule 350-81, Sections 560 through 590 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 on adjacent parcels, an appropriate buffer shall be established between the building/structure and the parcel.*

No other existing recreation resources exist on adjacent parcels; thus, no buffer is required in this decision, consistent with Commission Rule 350-81-086. The proposed development is an extension and modification to an existing and previously established recreation site. Besides improving erosion problems, the proposed modifications are intended and designed to improve the use and enjoyment experienced by users.

2. The proposed reroute travels through property that is designated Recreation Intensity Class I and Recreation Intensity Class II. Commission Rule 350-81-610 lists allowable recreation uses occurring in the General Management Area based on designated Recreation Intensity Classes. Commission Rule 350-81-610(1)(b) states that hiking trails are allowed in areas of the National Scenic Area designated as Recreation Intensity Class I (very low intensity), subject to compliance with Commission Rule 350-81-610(5) and (6). Thus, the proposed modifications to the hiking trail are allowed uses pursuant to 350-81-610(1)(b).
3. Commission Rule 350-81-610(1)(h) states that simple interpretative signs not exceeding 50 square feet are a reviewable use. The applicant proposes six educational signs. The total size of all six signs combined is 18 square feet. Three signs address noxious weeds and stow-away seeds. One sign discusses the "Rules of the Trail," and two signs address Yellow Star Thistle. The proposed signs are allowed uses pursuant to Commission Rule 350-81-610(1)(h).
4. Commission Rule 350-81-610(5) states that all proposed recreation projects outside of Public or Commercial Recreation designations shall meet the following criteria:

*a. Compliance with 350-81-520 through 610.*

Compliance with Commission Rules 350-81-520 through 610 are addressed in Sections B through E of this decision. All elements of the proposed development are consistent with sections 520 through 610 as discussed above.

*b. Cumulative effects of proposed recreation projects on landscape settings shall be based on the "compatible recreation use" guideline for the landscape setting in which the use is located.*

The proposal has two landscape settings: Grasslands and Oak-Pine Woodlands. Commission Rule 350-81-520(3)(c)(C) states that compatible recreation uses in the Oak-Pine Woodland landscape setting include resource-based recreation uses of varying intensities, although most are of a very low-intensity nature such as trails or scenic overlooks.

The proposed recreational use is of a low-intensity nature, and there are few other trails in the vicinity. The trail will not create adverse impacts and is considered visually subordinate (see findings B.6, B16–B.21).

Commission Rule 350-81-520(3)(d)(C) states that compatible recreation uses in the Grassland landscape setting include resource-based recreation uses of varying intensities, although most are of a very low-intensity nature or low-intensity nature that occur infrequently and compatible with the setting, and include hiking, hunting and wildlife viewing. All of the proposed recreational uses in the Grassland landscape setting are considered compatible uses; the three small scenic overlooks and new trail segments. Neither the trail or the overlooks and will not create adverse impacts and both are visually subordinate (see findings B.6, B16–B.21).

All of the proposed recreational uses are considered compatible uses with the landscape setting and will not create adverse scenic impacts. The proposed development is consistent with Commission Rule 350-81-520(1)(e).

*c. For proposed recreation projects in or adjacent to lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland:*

*A. The use would not seriously interfere with accepted forest or agricultural practices on surrounding lands devoted to forest or farm uses. Provision of on-site buffers may be used to partially or fully comply with this criterion, depending upon project design and/or site conditions.*

The proposed recreation project is located on land designated Large-Scale Agriculture and Small Woodland. The other adjacent parcels are mix of private and public lands. To the east, the Cherry Orchard property is bordered by parcels owned by the Washington Department of Natural Resources. To the west, the Cherry Orchard property borders the town of Lyle, WA and its Urban Area Boundary. To the north, the Cherry Orchard property is surrounded by three parcels, all three parcels under independent private ownership. None of the adjacent properties either owned by the subject landowner or by public entities and do not contain forest or agricultural practices. Currently, there is cattle grazing taking place on one nearby parcel that is completely fenced off from adjacent lands. There is no devoted agricultural activity taking place on any nearby lands. Remnants of an abandoned cherry orchard exist near the eastern terminus of the trail. However, no crop cultivation or grazing currently occurs on adjacent lands.

The use of the trail for hiking has been established since 1992. Recreational development can be compatible with grazing activity if new cattle grazing activities commence. On nearby lands where recreation and cattle grazing coexist, mitigation measures such as seasonal trail closures or cattle signs have allowed for the coexistence for recreational opportunities and cattle grazing operations on the same land. The proposed trail improvement project does not result in the loss of land suitable for agriculture. Given this information, the proposed improvements do not interfere with accepted forest or agricultural practices, consistent with Commission Rule 350-81-610(5)(c)(A).

*B. A declaration has been signed by the project applicant or owner and recorded with county deeds and records specifying that the applicant or owner is aware that operators are entitled to carry on accepted forest or farm practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland.*

A condition of approval was included in Director's Decision C05-0044 to ensure compliance with this requirement, consistent with Commission Rule 350-81-610(5)(c)(B). The Commission has a copy of the declaration, signed by Nancy N. Russell, on July 30, 1996.

5. Pursuant to Commission Rule 350-81-610(5)(e) several Management Plan trail policies [Management Plan, page I-4-11 through I-4-12] are applicable to the subject trail. The relevant policies are discussed below.



Policy 1 states:

*Trail planning and management efforts shall include affected landowners, relevant agencies, Indian tribal governments, and trail organizations from the beginning of such efforts.*

The trail has been in use since 1992. It was legally established through a Commission review in 1995. As part of the application process, a description of the proposed additions and modifications was sent to the landowner, adjacent property owners, relevant agencies and Indian tribal governments. The Washington Trail Association (WTA) has signed an Memorandum of Understanding (M.O.U.) with Friends of the Columbia Gorge stating it will help build and maintain the trail. Given this information, the proposed trail modifications are consistent with Management Plan Policy 1 for Trails and Pathways.

Policy 3 states:

*As an integral component of trail planning, development, and management efforts, strategies shall be developed to address trespass, noxious weeds, and public safety issues...*

The trail extensions and reroutes are designed to follow more gradual topography to prevent erosion, decrease steep slopes, and increase safety. The applicant also proposes to develop the trail with a “full-bench” tread, which is the recommended trail design by the U.S. Forest Service because it is safe, durable and requires minimal maintenance once established.

The applicant also proposes to install three interpretative signs that address noxious weeds located around the trail. A condition of approval also requires the applicant revegetate those segments of the existing trail that are modified or deconstructed with native grasses.

Policy 4 states:

*Temporary trail closures during critical fire hazard periods should be considered.*

The existing trail has been in use since 1992 without seasonal closures during fire hazard periods. Commission staff conducted site visits in summer of 2018 and did not observe obvious signs of past fire damage exist within the vicinity of the trail. Given the trail’s history of low fire occurrences and its proximity to Highway 14 and Lyle, WA, no closures during fire hazard periods are required by this decision. The applicants are considered a wildfire response plan for the Cherry Orchard Trail property in the near future that includes consideration of trail closures during red flag warnings and recommendations by local wildland fire personnel.

Policy 5 states:

*Shared use of trails by compatible multiple-user groups should be encouraged as much as possible where appropriate conditions exist, to maximize efficient use of trails and reduce needs for new trail construction.*

The applicant has been managing the trail as a footpath only. As proposed, only the modified segments of the trail will measure 36 inches wide and large segments of the trail exist on steep terrain. Some unmodified segments of the trail will still have a considerably steep grade. Given the existing site conditions, and cultural resources in the general vicinity, it is not appropriate to encourage multiple uses of this trail.

Policy 6 states:

*User conflicts on trails shall be minimized through proper siting, design, and maintenance and an aggressive user education program. Multiple-use trails shall be built to standards sufficient to accommodate such different groups. Standards shall address safety concerns and considerations such as signage, trail width, visibility, and percent grade.*

As previously stated, the trail is managed as a foot path only. Because the trail primarily hosts one user group, user conflicts are not a significant issue. Given this information the proposed trail modifications are consistent with this guideline.

Policy 7 states:

*Use of motorized vehicles on designated public use trails shall be prohibited, except for use by response agencies and their agents in an emergency.*

The use of motorized vehicles is not included in this application. A condition of approval is included to alert the applicant and landowner to this policy.

Policy 8 states:

*Priority shall be given to the completion and improvement of existing trails, incomplete trail loops, and trail segments, considering relationships with trails in Urban Areas, the SMA, and outside the Scenic Area.*

Friends of the Columbia Gorge advocate development of a bi-state loop trail around the Columbia River Gorge. The applicant is working towards the goal of completing the loop trail concept. As proposed, this new development improves an existing trail and aides in the completion of a loop trail around the Columbia River Gorge, consistent with this policy.

Policy 10 states:

*Trail systems and new trails shall, where feasible, incorporate existing segments of older/historic trails and abandoned road and railroad rights-of-way.*

Many new segments of the trail follow unofficial preexisting livestock and wild game trails. Professional improvements to these segments of trail contribute to an enduring trail system that incorporates older trails, consistent with this policy.

Policy 12 states:

*Barrier-free access shall be provided for new trails and improvements to existing trails to the maximum extent practicable.*

The existing trail ranges significantly in grade but is steep to very steep (15% to 45% slopes) through much of its length. These grades exceed the recommended accepted standards for barrier-free trail usage. The proposed modifications reduce the grade on segments of the trail, but not its entirety. Due to steepness it is not practical to make the Cherry Orchard Trail a barrier free trail.

Policy 16 states:

*Trails proposed along the Columbia River and its tributaries shall be designed in a manner that minimizes effects to the shoreline and associated habitat values. Seasonal closures during critical wildlife periods shall be considered, as well as other appropriate mitigative measures.*

Staff contracted Stephanie Bergh and Amber Johnson with Washington Department of Fish and Wildlife and Jasa Holt with the Washington Natural Heritage Program in Fall 2017, to verify any potential impacts to sensitive habitat areas. Neither agency expressed concern regarding the proposed actions. Potential impacts to natural resources are discussed in Section C of this decision.

6. Commission Rule 350-81-610(6) includes design guidelines for the development of new recreation facilities. The guidelines address design of parking and trailhead structures, lighting and landscape features. Commission Rule 350-81-020(119) defines *recreation facility* as:

*A cluster or grouping of recreational developments or improvements located in relatively close proximity to one another, and that are not separated in distance by more than 1/4 mile of land that does not contain any such developments or improvements, except for roads and/or pathways.*

The subject application is for the modification of an existing trail and does not include recreation facilities. Therefore, guidelines listed in 350-81-610(6) do not apply.

Conclusion:

The proposed modifications to the Cherry Orchard Trail are consistent with Commission Rule 350-81-086 and the Recreation Intensity Class provisions (350-81-610) that protect recreation resources in the National Scenic Area.

#### F. Tribal Treaty Rights

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 Indian treaty rights and provides 20 days for tribal governments to submit comments.

The subject property has no access to the Columbia River, but pursuant to other noticing requirements, notice of the proposal was mailed or emailed to each of the four tribal governments on February 6, 2018 and a cultural survey report was mailed or emailed to of the four tribal governments on May 7, 2018.

Comments were received from the Confederated Tribes of Warm Springs during the 30-day comment period. The Confederated Tribes of Warm Springs concurred with the findings of Ms. Darby and Mr. Donnermeyer and requested an Inadvertent Discovery Plan be implemented and that the four Treaty Tribes be notified if archeological deposits or human remains are encountered during construction activities. Conditions of approval are included in the Decision that address discovery of cultural resources and human remains during construction activities consistent with the recommendation.

3. Commission Rule 350-81-084(1)(b) lists guidelines for tribal government consultation when those governments submit substantive written comments. No substantive written comments

were submitted by tribal governments. Given this information, the proposed development is consistent with Commission Rule 350-81-084(1)(b).

4. Commission Rule 350-81-084(1)(c)(B) states:

*The treaty rights protection process may conclude if the Executive Director determines that the proposed uses would not affect or modify treaty or other rights of any Indian tribe. Uses that would affect or modify such rights shall be prohibited.*

The subject property does not provide access to the Columbia River or its fish bearing tributaries. No known treaty rights are affected by this proposal and the cultural resources concern has been addressed. 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 350-81-084(1)(c)(B).

Conclusion:

The proposed development is consistent with the guidelines in Commission Rule 350-81-084, which provides protection for treaties and any other rights of any Indian tribe in the National Scenic Area.

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