

COLUMBIA RIVER GORGE COMMISSION DIRECTOR'S DECISION

CASE FILE: C17-0002

PROPOSAL: The Columbia River Gorge Commission has received an application for replacement of two railroad crossing stop signs with motion-sensor activated flashing stop signs and solar panels.

APPLICANT: Maryellen Haggard for WA State Parks

LANDOWNERS: Burlington Northern Santa Fe Railway Co.

LOCATION: The subject parcel is located in the SE ¼ of Section 19, Township 2 North, Range 14 East, Klickitat County, Washington (Klickitat County Parcel Number 02-14-19-0000-06/00).

LAND USE

DESIGNATION: General Management Area (GMA) – Public Recreation

DECISION:

Based upon the following findings of fact, the land use application by Maryellen Haggard, for WA State Parks, for the replacement of two railroad signs 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 C17-0002, and approved site plan shall be recorded in county deeds and records at the Klickitat County Auditor's Office. Once recorded, the applicants shall submit a copy of the recorded documents to the Executive Director.
2. This decision does not exempt the proposal from other non-National Scenic Area rules and regulations. It is the applicants' responsibility to ensure the use complies with all other applicable federal, state, and county laws and to obtain necessary approvals, including utility easement approvals.
3. Any new land uses or structural development such as dwellings, 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. All development shall be constructed as shown in 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. A variance to Commission Rule 350-81-520(2)(x) is authorized, allowing the replacement signs to be located at their current location within 100 feet of the normal pool elevation of the Columba River above Bonneville Dam.
5. The backs of the stop signs and the support structure of the signs shall be painted dark brown with a flat, non-reflective paint. The approved color is FED-STD-595 Color no. 30040.
6. All areas disturbed during construction shall be rehabilitated to the maximum extent practicable.
7. A qualified archaeological monitor shall prepare a plan to address any cultural resources discovered during construction. The archaeological monitor shall be onsite to monitor all ground disturbing activities for the replacement signs to ensure that a professional is present in the event of an unanticipated discovery. The monitor shall submit a monitoring report letter following construction.
8. If cultural resources are discovered during construction activities, all activities within 100 feet of the cultural resources shall immediately cease and the applicants shall notify the Gorge Commission within 24 hours of discovery and the State Physical Anthropologist, Dr. Guy Tasa at (360) 586-3534 or guy.tasa@dahp.wa.gov. The cultural resources shall remain as found and further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.
9. 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.
10. The applicants shall notify the Gorge Commission within 30 days of project completion to arrange for a **FINAL INSPECTION** to confirm compliance with all of the conditions of approval. Project completion means completion of all work to the exteriors of structures (including painting). The applicants shall arrange the inspection by calling the Gorge Commission at (509) 493-3323 or emailing info@gorgecommission.org. Each inspection may take up to seven business days from the time of calling for the inspection.

DATED AND SIGNED THIS 26 day of January 2021 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 26 day of January 2023 unless construction has commenced in accordance with Commission Rule 350-81-044(4).

Commission Rule 350-81-044(4) specifies that commencement of construction means actual construction of the foundation or frame of the approved structure.

Construction must be completed within two years of the date 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 25 day of February 2021.

The decision of the Executive Director is final unless the applicant or any other person who submitted comment files a Notice of Intent to Appeal and Petition with the Commission within thirty (30) days of the date of this decision. Information on the appeal process is available at the Commission office.

NOTES:

Any new land uses or structural development such as driveways, parking areas, garages, workshops, fences or other accessory structures; or additions or alterations not included in the approved application or site plan will require a new application and review. New cultivation also requires a new application and review.

This decision does not address local, state, or federal requirements that may be applicable to the proposed development. The landowner is responsible for obtaining all applicable county, state, or federal permits required for the development.

cc:

Confederated Tribes and Bands of the Yakama Nation
Confederated Tribes of the Umatilla Indian Reservation
Confederated Tribes of Warm Springs Reservation of Oregon
Nez Perce Tribe
U.S. Forest Service National Scenic Area Office
Washington Department of Archaeology and Historic Preservation
Klickitat County Planning Department

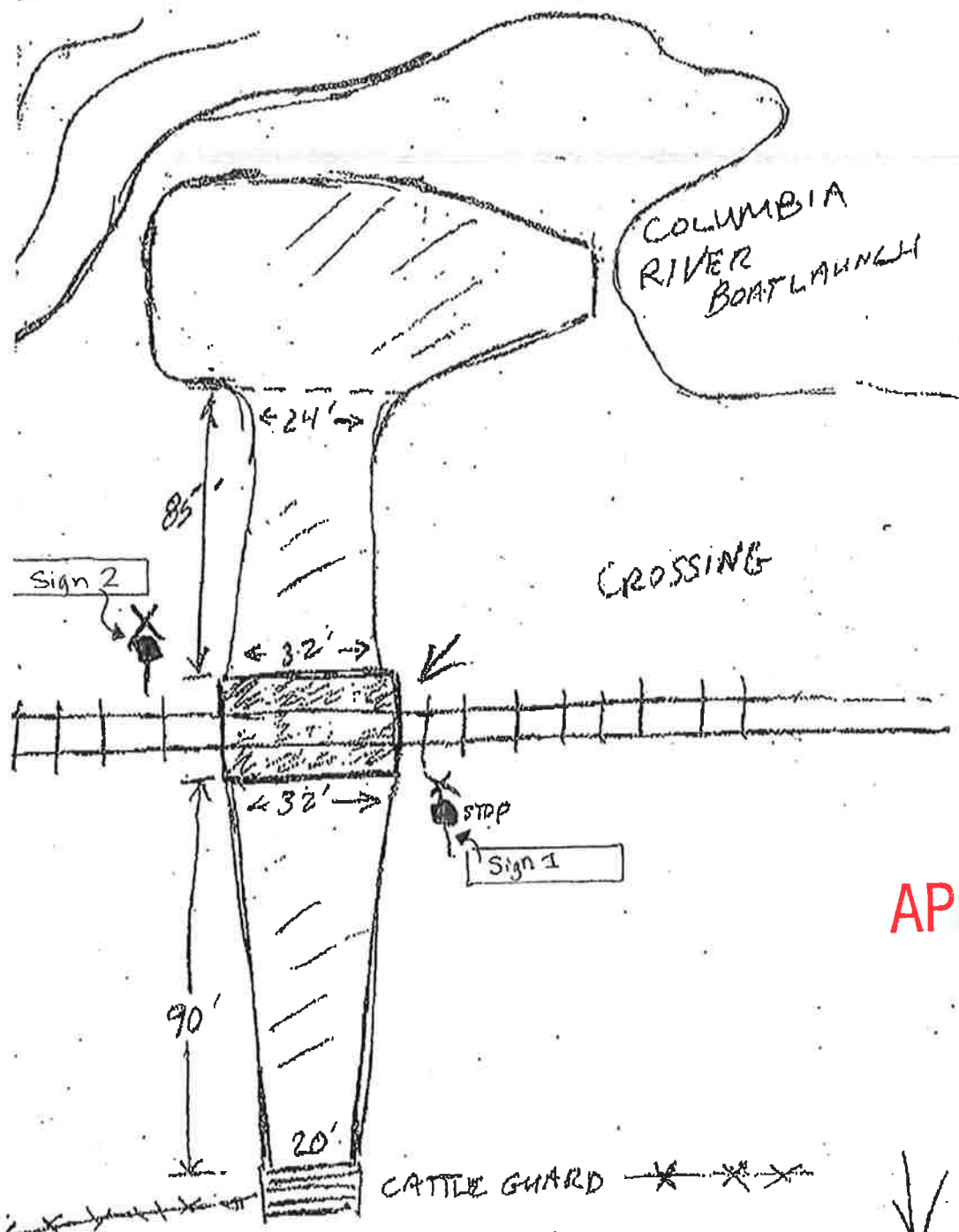
Klickitat County Building Department
Klickitat County Public Works Department
Klickitat County Health Department
Klickitat County Assessor
Washington Natural Heritage Program
Washington Department of Fish and Wildlife
Steve McCoy, Friends of the Columbia Gorge

Attachments:

Staff Report for C17-0002
Approved site plan

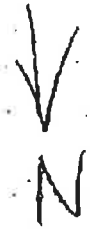
COLUMBIA RIVER

COLUMBIA RIVER BOAT LAUNCH



APPROVED

kw

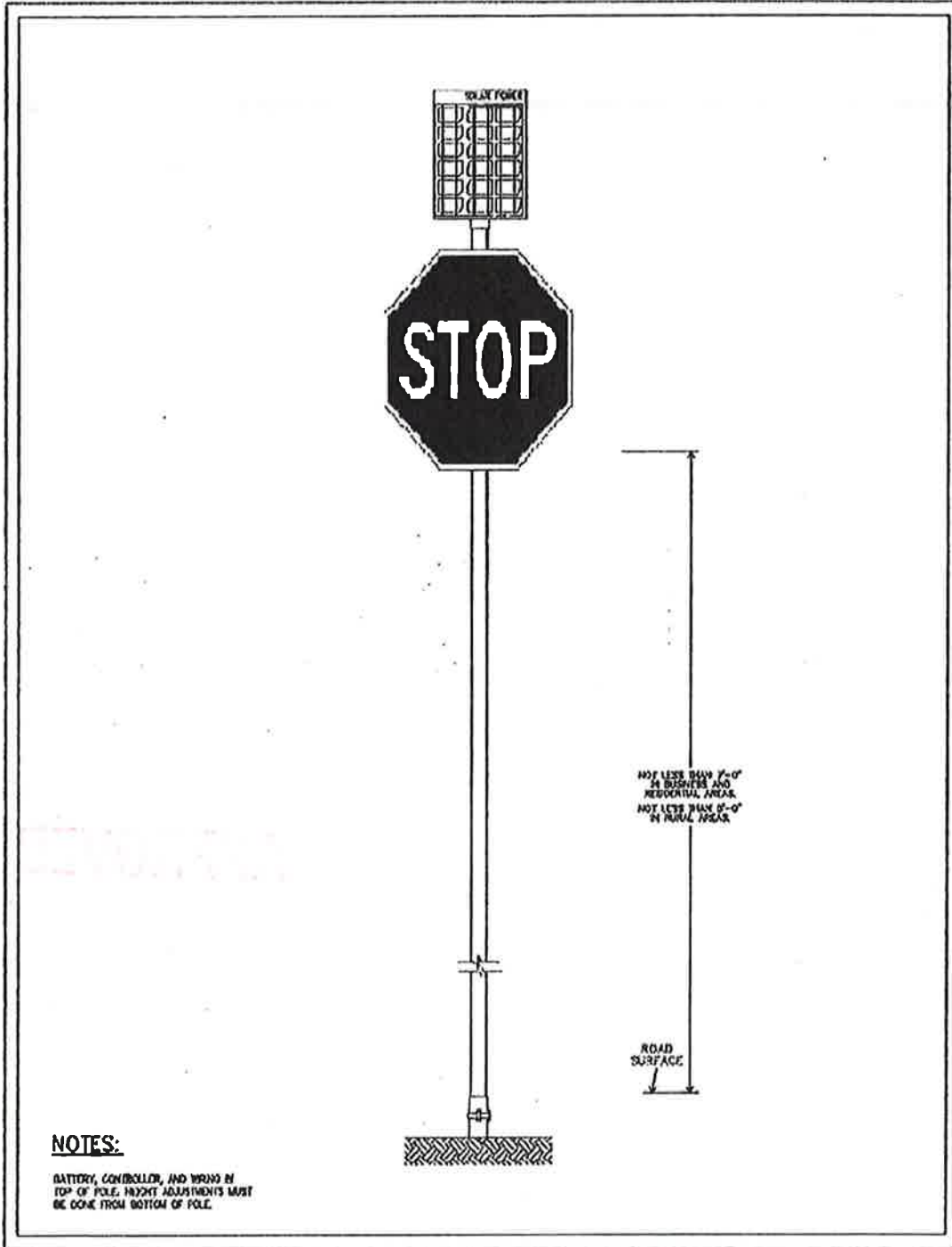


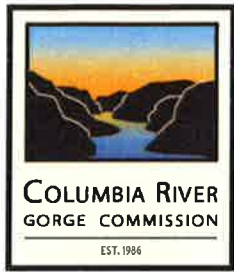
— COLUMBIA HILLS STATE PARK —
 LTC GRADE CROSSING PROTECTION FUND

Attachment 5 of 6 Proposed Sign

APPROVED

Kw





COLUMBIA RIVER GORGE COMMISSION STAFF REPORT

CASE FILE: C17-0002

PROPOSAL: The Columbia River Gorge Commission has received an application for replacement of two railroad crossing stop signs with motion-sensor activated flashing stop signs and solar panels.

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LANDOWNER: Burlington Northern Santa Fe Railway Co.

LOCATION: The subject parcel is located in the SE ¼ of Section 19, Township 2 North, Range 14 East, Klickitat County, Washington (Klickitat County Parcel Number 02-14-19-0000-06/00).

LAND USE

DESIGNATION: General Management Area (GMA) – Public Recreation

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 Holly Shea, Senior Archaeologist, Confederated Tribes of the Umatilla Indian Reservation, Jasa Holt, Data Specialist, Washington Natural Heritage Program, and Steve McCoy, attorney, Friends of the Columbia River Gorge.

A. LAND USE

1. Washington State Parks have applied for replacement of two railroad crossing stop signs with motion-sensor activated LED-flashing lights and solar panels. Each solar panel is approximately two square feet in surface area. The parcel is long and narrow, following the railroad tracks along the east-west axis. The parcel is mostly designated GMA Open Space, but this development proposal will take place in an area designated GMA Public Recreation.
2. The railroad crossing in this application provides access to a public boat launch located on the Columbia River.
3. Commission Rule 350-81, the Land Use Ordinance, has been amended since this application was noticed to the public on February 9, 2017. Because the application was submitted in accordance with the Commission Rule as amended through June 1, 2012, it will be reviewed under that rule. All references to Commission Rule 350-81 in this staff report cite the June 1, 2012 version of the Rule.
4. Commission Rule 350-81-480(1), Uses Allowed Outright—Public Recreation, and Commercial Recreation states that the uses listed in Commission Rule 350-81-074(1) are allowed in the National Scenic Area without review. Commission Rule 350-81-074(1)(a)(H)(iv) states:

Permanent public regulatory, guide, and warning signs, except those excluded below, provided (1) the signs comply with the Manual [on] Uniform Traffic Control Devices and (2) the support structures and backs of all signs are dark brown with a flat, non-reflective finish. This category does not include specific service signs; destination and distance signs; variable message signs; or signs that bridge or are cantilevered over the road surface.

The proposed replacement stop signs included in this application are permanent public regulatory signs that comply with the Manual on Uniform Traffic Control Devices, and the support structures and backs of those signs could be painted dark brown with a flat, non-reflective finish to comply with this rule. This would imply that the use is allowed outright. However, installation of solar panels to power the signs is not regulated in the Manual on Uniform Traffic Control Devices.

5. Without a standard to comply to in the Manual on Uniform Traffic Control Devices, the Commission must review the installation of the solar panels, and by extension the replacement of the regulatory signs and support structures, as part of a replacement of existing structures not damaged or destroyed by disaster under Commission Rule 350-81-082(2).
6. Commission Rule 350-81-082(2)(a) states the review standards for replacement of an existing structure not damaged or destroyed by disaster.

Except as provided in 350-81-082(3), an existing structure may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within one year of the date the use of the original structure was discontinued. The replacement structure shall comply with the following standards:

Commission Rule 350-81-082(3) states the review standards for replacement of existing structures damaged or destroyed by disaster and does not apply here. The Gorge

Commission received a complete land use application for the replacement structures, which was noticed to the public on February 9, 2017. The original structures have not yet been discontinued. They shall be discontinued following the installation of the replacement structures.

(A) The replacement structure shall be used in the same manner and for the same purpose as the original structure.

The existing structures and replacement structures are regulatory traffic control sign for public safety around a railroad crossing. The replacement structure shall be used in the same manner and for the same purpose as the original structure.

(B) The replacement structure may have a different size and/or location than the original structure. An existing mobile home may be replaced with a framed residence and an existing framed residence may be replaced with a mobile home.

The replacement structures will be at the same location as the existing structures, using the same holes dug for the original structures. The replacement structures, including the solar panels, will be slightly shorter than the existing structures which include the standard railroad crossing 'X' sign.

(C) The replacement structure shall be subject to the scenic, cultural, recreation and natural resources guidelines; the treaty rights guidelines; and the land use designations guidelines involving agricultural buffer zones, approval criteria for fire protection, and approval criteria for siting of dwellings on forest land.

The replacement structures shall be reviewed under the applicable resource protection and land use guidelines.

(D) The original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the one year time frame.

The existing structures are still in use, and will be considered discontinued upon their removal when the replacement structures are installed.

7. The proposed replacement structures include signs. Commission Rule 350-81-112(1)(a) contains guidelines for new signs. These guidelines must be met unless they conflict with the Manual on Uniform Traffic Control Devices for public safety, traffic control, or highway construction signs. The proposed replacement signs are regulated under the *Manual on Uniform Traffic Control Devices*. Where the Commission Rule and the Manual conflict, the Manual's guidelines shall supersede these guidelines.

(A) The support structure shall be unobtrusive and have low visual impact.

The design of the proposed replacement support structures is mostly regulated under the *Manual on Uniform Traffic Control Devices*, but color is not. The support structures shall be required to be unobtrusive and have low visual impact, through painting them a dark brown with a flat, non-reflective finish. A condition of approval shall require the applicants to paint the support structure FED-STD-595 Color no. 30040, a dark brown used by the

Forest Service, Washington Department of Transportation, and other public agencies in the NSA.

(B) Lettering colors with sufficient contrast to provide clear message communication shall be allowed. Signs shall be colored to blend with their setting to the maximum extent practicable.

The design and colors of the signs are governed by the Manual on Uniform Traffic Control Devices. Those guidelines supersede the guidelines in this Rule.

(C) Backs of all signs shall be unobtrusive, nonreflective, and blend in with the setting.

A condition of approval shall require that the applicant paint the back of the signs FED-STD-595 Color no. 30040 in a flat finish to ensure that the signs are unobtrusive, nonreflective, and blend in with the setting.

(D) Spotlighting of signs may be allowed where needed for night visibility. Backlighting is not permitted for signs.

The applicant has not proposed to spotlight or backlight the signs. This guideline does not apply.

(E) Except for signs along public highways necessary for public safety, traffic control, or road construction and consistent with the Manual for Uniform Traffic Control Devices, the following signs are prohibited:

(i) Luminous signs or those with intermittent or flashing lights. These include neon signs, fluorescent signs, light displays, and other signs that are internally illuminated, exclusive of seasonal holiday light displays.

(ii) New billboards.

(iii) Signs with moving elements.

(iv) Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle.

The proposed replacement signs contain motion-activated LEDs that will flash intermittently when a vehicle approaches. The applicant included with their application a 2015 determination by the Washington Utilities and Transportation Commission that this crossing is "at risk" based on the grade of the crossing, sight distance down the tracks, and the lack of parking in the area requiring significant use of the crossing by boaters. The proposed replacement signs are necessary for public safety and traffic control and are therefore allowed under this guideline.

CONCLUSION:

The proposed replacement structures are a review use on lands designated GMA Public Recreation provided they do not adversely affect scenic, cultural, natural, or recreation resources in the National Scenic Area.

B. SCENIC RESOURCES

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

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

The proposed development does not include any new dwellings, buildings, or roads. Any grading will be minimal, and confined to shaping the pre-existing holes for the existing sign posts in order to accommodate the new sign posts. The proposal is consistent with this rule.

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

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

The proposed development does not include any new buildings. Commission Rule 350-81-520(1)(b) does not apply.

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

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

No new vegetation is proposed, and none is required by the guidelines of this chapter. Commission Rule 350-81-520(1)(c) does not apply.

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

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

A site plan was provided consistent with Commission Rule 350-81-032 (Application for Review and Approval). The landscape setting for the subject parcel is River Bottomlands. Commission Rule 350-81-520(3)(i) contains the design guidelines for proposed uses in the River Bottomlands landscape setting. Finding B.15 addresses the applicable guidelines in Commission Rule 350-81-520(3)(i) using information submitted in the site plan, consistent with this rule.

5. Commission Rule 350-81-520(2) contains guidelines that apply to development on sites visible from Key Viewing Areas (KVAs). Using Commission inventories and Google Earth, staff determined the subject parcel is topographically visible from the following three Key Viewing Areas: Columbia River, Interstate 84, and SR 14. From the SR 14 KVA, the development site is visible intermittently from a distance ranging from .65 to more than four miles away. From the Columbia River KVA, the development site is directly visible from a distance of 1.6 miles away to the southeast, and from a distance of 3.8 miles to the west. From the Interstate 84 KVA, the development site is directly visible from as close as .47 miles directly across the river, to 1.5 and 2.2 miles to the east and west, respectively. Therefore, the guidelines of Commission Rule 350-81-520(2) apply to the proposed development.

6. Commission Rule 350-81-520(2)(b) requires new development to be *visually subordinate* to its setting when viewed from Key Viewing Areas. Commission Rule 350-81-520(2)(d) includes requirements for the information included in this staff report, as well as a list of potential conditions for achieving visual subordination.

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

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

The proposed replacement signs and support structures are regulated under the *Manual on Uniform Traffic Control Devices (MUTCD)*, as well as this guideline and the sign guidelines described in Finding A.7. As conditioned in Finding A.7, the replacement signs and support structures will be in compliance with the sign guidelines as well as the *MUTCD*, ensuring that the signs and structures are *visually subordinate*. In addition, following discussion in early 2017, the applicants proposed to use the motion-activated LEDs rather than continuously flashing LEDs, to better meet the scenic resource protection guidelines.

The proposed solar panels on top of the replacement signs are not subject to regulation under the *MUTCD*, and shall be reviewed for visual subordination. The panels are small, approximately two square feet each, with a dark brown frame. They will be oriented south, meaning they will be visible from the SR 14 KVA, and potentially reflective as seen from the Columbia River and Interstate 84 KVAs. There is no existing vegetation on the subject parcel, which is narrow and oriented on an east-west axis. Topographic features limit visibility of the site from KVAs to the east and northeast. Existing vegetation at the boat launch on a separate parcel to the southwest may obscure the solar panels somewhat, but only from a small section of the Columbia River KVA, meaning that the panels are largely unobstructed from view from the Columbia River, SR 14, and Interstate 84 KVAs.

Generally, to achieve visual subordination for solar panels, conditions of approval are applied including new landscaping. However, the area of the subject parcel surrounding the crossing is exclusively exposed bedrock; it is unlikely that any landscaping would survive. The replacement signs cannot be sited differently without drilling new holes, which would increase the grading associated with the project and would raise cultural resource protection issues. The design of the solar panels cannot be readily changed to address their potential for reflectivity. As compared to new aboveground or underground electric utilities specifically for this use, the use of the solar panels is otherwise the least impactful to protected resources that still allows the use of LED lights. As the use of the LED lights is regulated by the *Manual on Uniform Traffic Control Devices*, and the signs are for the purpose of public safety, the installation of the solar panels is necessary to the proper use of the proposed replacement signs. Lastly, the solar panels are small, well below the recommended maximum of 50 square feet of reflective surfaces that is applied to residential development, through the *Scenic Resource Implementation Handbook*. While the panels are certainly *visible*, they also achieve the standard of visually subordinate as seen from KVAs.

The design features of the proposed signs and structures have been reviewed for compliance with the scenic resource guidelines, and all applicable measures to remove

scenic resource impacts have been taken while deferring to the *Manual on Uniform Traffic Control Devices* where appropriate. The replacement signs, structures, and solar panels will meet the standard *visually subordinate* as seen from Key Viewing Areas.

7. 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 effects” as:

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

To determine cumulative effects of the proposed development, staff evaluated the potential for cumulative effects arising from future development of “at risk” public railroad crossings in the National Scenic Area as identified by the Washington Utilities and Transportation Commission, as well as other public railroad crossings in the National Scenic Area.

The 2015 assessment of “at risk” railroad crossings in the state of Washington conducted by the Washington Utilities and Transportation Commission reviewed 347 crossings, and identified 14 of those crossings as in need of improvements for public safety. Two of the identified crossings are in the National Scenic Area – the crossing for this proposed development at Horsethief Lake, and another crossing in Skamania County at Butler Loop Road. This other crossing is the only place in the National Scenic Area where a similar development could take place in Washington state. The Butler Loop Road crossing is over a section of double track, and is developed with large flashing lights that activate when a train is approaching, though there is no physical barrier to stop traffic from crossing at any time. This area is more substantially vegetated, mitigating the scenic impacts of the flashing crossing lights to all KVAs except for SR 14, which is adjacent. The crossing is potentially visible for approximately one-half mile in either direction along the highway. Allowing the proposed replacement signs and solar panels at the Horsethief Lake crossing would not result in an increased potential for resource impacts at the Butler Loop Road crossing, because the existing development at the Butler Loop Road crossing is already more substantial than what is proposed here. As such, there does not currently exist the potential for cumulative effects, including adverse effects, from this application.

In other locations where there are public railroad crossings in the National Scenic Area, the Washington Utilities and Transportation Commission, its Oregon equivalent, or other transportation agencies would need to make a similar finding that a crossing is “at risk” before a similar replacement development would be considered. This is because the use of flashing LEDs in these signs is dependent on their need for public safety, as discussed in Finding A.7. The potential for cumulative impacts from this type of development is limited by several of the specific factors involved for this proposed development. The subject parcel is highly visible from KVAs due to its topography, geology, and lack of existing vegetation, which is less likely to be the case in more western counties in the NSA. The crossing provides a public access to a boat launch with limited space on site, while other crossings in the eastern portions of the NSA lead to longer access roads, with higher degrees of visibility down the tracks, even where crossings are adjacent to the Columbia River. The proposed development at this crossing is very distant from SR 14, requiring

different and specific considerations for signage, safety, and power due to the relative dearth of supporting infrastructure compared to other crossings. Additionally, a review of public crossings on the Federal Railroad Administration's GIS Web Application in the eastern NSA shows several more developed crossings already exist, including several outside of Urban Areas, in areas with more sufficient access roads, sightlines, and more significant infrastructure at the crossings such as train-activated lights and physical barriers. In essence, the scenic resource impacts from the replacement signs and new solar panels in this application are potentially far *below* what could be permitted at such a crossing as the one in this application, were the applicants interested in more significant investment into the infrastructure on site at this time.

While some impacts are expected from the proposed development, it is the specifics of the facts in this application that allow the lighted signs and solar panels to be permitted. In such a case, the same deference to the standards in the *Manual on Uniform Traffic Control Devices* would apply which may allow similar development with motion-activated flashing LEDs, and the same balance would be applied to the expected impacts to scenic resources and cultural resources (and any other resources involved in those applications). The application of Commission Rule 350-81 and the Management Plan specifically exclude some analysis of scenic resource impacts for these kinds of signs, and for the remaining analysis on future applications, staff will determine in each specific case whether the scenic impacts of intermittent flashing lights and the reflectivity of solar panels is allowable. The design features of this application have been reviewed and found to meet the visually subordinate standard – future application for similar development will be subject to the same standards.

For the reasons above, the proposed development will not cause adverse scenic impacts because it is designed to meet the scenic standard *visually subordinate*, and will not cause adverse cumulative scenic impacts, consistent with Commission Rule 350-81-520(2)(c).

8. 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.

As discussed in Finding B.6, moving the existing location of the signs would result in conflicts with the guidelines to protect cultural resources. Furthermore, there is no location where the signs could achieve visual subordination purely through siting while also achieving their purpose of achieving greater public safety. As located, the proposed replacement signs comply with this guideline to the maximum extent practicable.

9. 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 Design Guidelines in 350-81-520(3).

There is no existing tree cover on the subject parcel screening the replacement signs and support structures from Key Viewing Areas. This guideline does not apply.

10. Commission Rule 350-81-520(2)(j) contains guidelines for new landscaping used to screen development from Key Viewing Areas. No new landscaping is required for the proposed development. This guideline does not apply.

11. 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.

The signs and support structures are exempted from this guideline where the guideline conflicts with the *Manual on Uniform Traffic Control Devices*. As stated in Finding A.7, the back of the sign and the support post shall be required to be painted FED-STD-595 Color no. 30040. The solar panel has a dark brown frame as installed. These colors are included as conditions of approval.

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

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

The proposed replacement signs include flashing LEDs that will activate when a vehicle approaches the crossing. The signs and the LEDs are subject to the guidelines of the *Manual on Uniform Traffic Control Devices*; as discussed in finding A.6, the LEDs are necessary for public safety at a crossing identified by the Washington Utilities and Transportation Commission as "at risk." No other exterior lights are proposed.

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

Overpasses, safety and directional signs, and other road and highway facilities may protrude above a skyline visible from a key viewing area only upon a demonstration that:

(A) The facility is necessary for public service, and

(B) The break in the skyline is the minimum necessary to provide the service.

The proposed replacement signs are shorter than the existing signs, which included the standard railroad crossing "X." The replacement signs are at a lower elevation than SR 14, and do not break the skyline as seen from that KVA. The signs are at a great enough distance from Interstate 84 that they do not break the skyline as seen from that KVA. The hills in the background to the north and east of the proposed replacement signs rise slowly, but enough that the signs do not break the skyline as seen from the Columbia River KVA adjacent to the shoreline near the development site. This guideline does not apply.

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

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

The northwestern-most replacement sign and support structure is set back more than 100 feet from the normal pool elevation of the Columbia River. The southeastern-most sign and support structure is set back approximately 95 feet from the normal pool elevation of the

Columbia River. The sign is being replaced in the exact same location as the existing sign. While relocation of the sign is possible, there is no location on the parcel where the sign could be placed where it would be farther away from the edge of the Columbia River while also achieving its purpose for public safety. Further, to reiterate Finding B.6, relocation of the sign raises other cultural resource protection issues. Taken together, these facts would effectively render the property unbuildable under this Rule for the proposed replacement signs and structures. Under this Commission Rule, a variance is authorized for the replacement of this sign to allow it to be placed at the location of the existing sign, within the 100 foot setback from the normal pool elevation of the Columbia River.

Further consideration for protection of water resources, including the Columbia River, is in Findings E.1 to E.5.

15. Commission Rule 350-81-520(3)(i) contains guidelines for development in the River Bottomlands landscape setting. It states:

(A) 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) Except as is necessary for site development or safety purposes, existing tree cover screening the development from key viewing areas shall be retained.

There is no existing tree cover on the subject parcel. This guideline does not apply.

(ii) At least half of any trees planted for screening purposes shall be species native to the River Bottomland setting. Public recreation developments are encouraged to maximize the percentage of planted screening vegetation native to this setting. Such species include black cottonwood, big leaf maple, red alder, Oregon white ash, Douglas-fir, western red cedar and western hemlock (west Gorge), and various native willow species.

(iii) At least one-quarter of any trees planted for screening purposes shall be coniferous for winter screening.

There is no landscaping required as part of this application. These guidelines do not apply.

(C) Compatible recreation uses depend on the degree of natural resource sensitivity of a particular site. In the most critically sensitive River Bottomlands, very low-intensity uses which do not impair wetlands or special habitat requirements may be compatible.

In other River Bottomland areas, nodes of moderate-intensity and/or high-intensity recreation uses may be compatible, provided that:

(i) their designs emphasize retention and/or enhancement of native riparian communities,

(ii) structures and parking areas are visually subordinate

(iii) they are separated from other areas of concentrated recreation usage by stretches of natural-appearing shoreline and adjacent uplands.

This guideline refers to recreation development. Though the proposed replacement signs and structures are related to a nearby recreation use, they are for public safety and are not recreational in nature. This guideline does not apply.

16. Commission Rule 350-81-520(4) contains guidelines for development that takes place within Scenic Travel Corridors, defined as the land within a quarter mile of the edge of pavement for those roadways. SR 14 is a scenic travel corridor, but the proposed

replacement signs and structures are more than a quarter mile away from the edge of the pavement. These guidelines do not apply.

CONCLUSION:

As conditioned, the proposed replacement signs, support structures, and solar panels are consistent with the review use guidelines in Commission Rule 350-81-520 that protect scenic resources in the National Scenic Area.

C. CULTURAL RESOURCES

1. Commission Rule 350-81-540 describes the cultural resource protection guidelines for review uses in the GMA.
2. Commission Rule 350-81-540(1)(c)(A)(ii)(I) lists the replacement of existing structures as a review use exempt from the reconnaissance survey requirements. However, on March 2, 2017, Margaret Dryden, Heritage Resources Program Manager, USFS-CRGNSA, in consultation with Washington Department of Archaeology and Historic Preservation, determined that because of the overall cultural importance of the site, a DAHP archaeology permit would be required to ensure protection of cultural resources at this site. This determination was based on the site's proximity to several cultural resources. As a result of this, Washington State Parks conducted a reconnaissance survey.
3. The reconnaissance survey was completed June 30, 2020, which found no cultural resources at the rail crossing where the proposed replacement signs will be installed. Chris Donnermeyer, Heritage Program Manager, USFS-CRGNSA, reviewed the survey and concurred in a letter dated August 19, 2020 that no resources were present, and that the proposed replacement signs would have no effect to significant cultural resources.
4. Commission Rule 350-81-540(2)(b) contains guidelines on the comment period following notice of survey results.
5. Commission Rule 350-81-540(2)(b)(A) requires the Commission to send notice of survey results to DAHP and the four treaty tribes. That notice was sent on September 2, 2020.
6. Commission Rule 350-81-540(2)(b)(B) states that DAHP and the four treaty tribes shall have 30 days to comment on the survey results. The Commission did not receive comments from DAHP and the treaty tribes in response to the notice of survey results.
7. The Commission did receive comment on February 9, 2017, from Holly Shea, Senior Archaeologist with the Confederated Tribes of the Umatilla Indian Reservation, requesting that a qualified cultural resource monitor be present during the replacement of the signs. This will be included in the Decision as a condition of approval.
8. Commission Rule 350-81-540(2)(c) describes the conclusion of the cultural resource protection process.

9. Commission Rule 350-81-540(2)(c)(B)(ii) states that the cultural resource protection process can 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.

The reconnaissance survey demonstrated 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 the original notice was mailed on February 9, 2017, none were voiced between February 9, 2017 and September 2, 2020 when the notice of survey results was sent, and no substantiated concerns regarding the reconnaissance survey were voiced during the 30-day comment period described above. Therefore, the cultural resource protection process can conclude.

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

CONCLUSION:

With a condition requiring an on-site monitor during construction, and with conditions protecting unknown cultural resources and human remains discovered during construction, the proposed replacement signs are consistent with the review use guidelines in Commission Rule 350-81-540 that protect cultural resources in the National Scenic Area.

D. RECREATION RESOURCES

1. Commission Rule 350-81-610 describes the recreation resource protection guidelines for review uses in the GMA. These guidelines apply to recreation developments. The proposed replacement signs are not recreation developments. Commission Rule 350-81-610 does not apply.
2. Commission Rule 350-81-086 states:

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

The proposed replacement signs are located within Horsethief Lake State Park, an established recreation site operated by Washington State Parks. The rail crossing where the replacement signs will be located provides access to a public boat launch. The replacement signs will help to ensure safe access to the boat launch, and will not detract from the use or enjoyment of the state park. No buffer is required.

CONCLUSION:

The proposed replacement signs are consistent with the review use guidelines in Commission Rule 350-81-610 that protect recreation resources in the National Scenic Area, and with Commission Rule 350-81-086 that establishes appropriate buffers between proposed development and existing recreation sites.

E. NATURAL RESOURCES

1. Commission Rule 350-81-560 describes the natural resource protection guidelines for review uses within wetlands and their buffer zones. Commission Rule 350-81-570 describes the natural resource protection guidelines for review uses within streams, ponds, lakes, and riparian areas, and their buffer zones. Commission inventories show the boat launch area as a listed wetland priority habitat. The nearest replacement sign is approximately 120 feet from the edge of the area shown in the Commission's inventory. The nearest replacement sign is approximately 95 feet from the Columbia River, and approximately 500 feet from Horsethief Lake.
2. Commission Rule 350-81-560(7)(b) describes the dominant vegetation communities that determine the buffer zone from wetlands. It states:

The dominant vegetation community in a buffer zone is the vegetation community that covers the most surface area of that portion of the buffer zone that lies between the proposed activity and the affected wetland. Vegetation communities are classified as forest, shrub, or herbaceous.

Drawing a line from the nearest sign to the edge of the wetland, the dominant feature of that area is a graveled boat launch area with no vegetation. The vegetation that does exist along the shoreline of the Columbia River appears to most closely match the "shrub vegetation community" described in Commission Rule 350-81-560(7)(b)(B), which would mean that staff would apply a 100-foot development buffer from the edge of the wetland, as described in Commission Rule 350-81-560(7)(c)(B). That said, as noted in Finding B.6, the area surrounding the proposed replacement signs is exclusively exposed bedrock, which provides no indication as to what the dominant vegetation type is other than suggesting that there is no dominant vegetation type. Because of this ambiguity, and because one of the proposed replacement signs is located within the largest wetland buffer area (150 feet for herbaceous vegetation communities), staff will review this application as though the buffer is 150 feet, to ensure consistency with the resource protection guidelines.

3. Commission Rule 350-81-570(7)(a)(A) states that the buffer zone for "streams used by anadromous or resident fish" is 100 feet. Regarding the Columbia River, this buffer is measured landward from the normal pool elevation of the river. The nearest replacement sign will be located within this buffer.

4. Commission Rule 350-81-560(3) includes those uses that may be allowed in wetlands and their buffer zones “when approved pursuant to the provisions in 350-81-560(5), and reviewed under the applicable provisions of 350-81-520 through 350-81-620.” A functionally identical rule exists for streams, ponds, lakes, riparian areas, and their buffer zones, in Commission Rule 350-81-570(3). The allowable uses under Commission Rule 350-81-560(3) include:

The modification, expansion, replacement, or reconstruction of serviceable structures, if such actions would not:

- (A) Increase the size of an existing structure by more than 100 percent,*
- (B) Result in a loss of wetlands acreage or functions, and*
- (C) Intrude further into a wetland or wetlands buffer zone. New structures shall be considered intruding further into a wetland or wetlands buffer zone if any portion of the structure is located closer to the wetland or wetlands buffer zone than the existing structure.*

The allowable uses under Commission Rule 350-81-570(3) include:

The modification, expansion, replacement, or reconstruction of serviceable structures, if such actions would not:

- (A) Increase the size of an existing structure by more than 100 percent,*
- (B) Result in a loss of water quality, natural drainage, and fish and wildlife habitat, or*
- (C) Intrude further into a stream, pond, lake, or buffer zone. New structures shall be considered intruding further into a stream, pond, lake, or buffer zone if any portion of the structure is located closer to the stream, pond, lake, or buffer zone than the existing structure.*

The proposed development replaces existing structures within the buffer of an inventoried wetland and within the buffer of the Columbia River. The replacement structures are smaller than the existing structures. The structures will be placed at the location of the current signs, using the same holes, resulting in no loss of wetland acreage or functions, and no loss of water quality, natural drainage, or fish and wildlife habitat. The placement of the structures does not intrude farther into a wetland or wetlands buffer zone, or into a stream, pond, or lake buffer zone. The replacement structures have been reviewed under the applicable provisions of 350-81-520 through 350-81-620, the resource protection guidelines for development in the National Scenic Area.

5. Commission Rule 350-81-560(5) applies to development taking place within wetlands and their buffer zones. Commission Rule 350-81-570(5) applies to development taking place in aquatic and riparian areas. Each states the following:

350-81-560(5): Applications for modifications to serviceable structures and minor water-dependent and water-related structures in wetlands shall demonstrate that:

- (a) Practicable alternatives to locating the structure outside of the wetlands or wetland buffer zone and/or minimizing the impacts of the structure do not exist;*

350-81-570(5): Applications for modifications to serviceable structures and minor water-dependent and water-related structures in aquatic and riparian areas shall demonstrate that:

(a) Practicable alternatives to locating the structure outside of the stream, pond, lake, or buffer zone and/or minimizing the impacts of the structure do not exist;

The proposed replacement signs will be installed at the same location of the existing signs, within the wetlands and Columbia River buffer zones. This is being done in order to satisfy the cultural resource protection guidelines, limiting grading and development to a minimum in a culturally sensitive area. Further, the replacement signs must be located in these locations in order to achieve their purpose as public safety signs and meet the standards in the *Manual on Uniform Traffic Control Devices*. The replacement sign closest to the wetland and the Columbia River cannot be moved farther away from either without placing it on the opposite side of the railroad tracks. There is no practicable alternative to locating the structures outside of the wetland and Columbia River buffer zones, and the impacts of the structures are minimized by placing them at the locations of the existing signs.

350-81-560(5)(b) All reasonable measures have been applied to ensure that the structure will result in the minimum feasible alteration or destruction of the wetlands, existing contour, functions, vegetation, fish and wildlife resources, and hydrology;

350-81-570(5)(b) All reasonable measures have been applied to ensure that the structure will result in the minimum feasible alteration or destruction of water quality, natural drainage, and fish and wildlife habitat of streams, ponds, lakes, and riparian areas;

The proposed replacement signs will be installed at the same location of the existing signs. Very limited grading may occur in order to shape the existing holes to accommodate the replacement signs. A condition of approval to protect cultural resources, requiring a cultural resource monitor on site, will ensure that grading is kept to a minimum for that resource, providing a similar benefit to the wetland resources and the aquatic and riparian resources. All reasonable measures have been applied to ensure that the structure will result in the minimum feasible alteration or destruction of the wetlands, existing contour, functions, vegetation, fish and wildlife resources, and hydrology, and the minimum feasible alteration or destruction of water quality, natural drainage, and fish and wildlife habitat of streams, ponds, lakes, and riparian areas.

350-81-560(5)(c) The structure will be constructed using best management practices;

350-81-570(5)(c) The structure will be constructed using best management practices;

Commission Rule 350-81-20(16) defines best management practices as:

Conservation techniques and management measures that (1) control soil loss and reduce water quality degradation caused by nutrients, animal

waste, toxins, and sediment; (2) minimize adverse affects to groundwater and surface-water flow and circulation patterns; and (3) maintain the chemical, biological, and physical characteristics of wetlands, ponds, streams, and riparian areas.

No impacts to water quality are anticipated from this development. Very little, if any, work will be conducted that impacts water quality. As conditioned under Commission Rules 350-81-560(5)(d) and 350-81-570(5)(d), any disturbance to the site will be rehabilitated Staff that installs the replacement structures should use best management practices, as defined above, while performing the installation.

350-81-560(5)(d) Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable; and

350-81-570(5)(d) Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable; and

A condition of approval shall be applied requiring that areas disturbed during construction will be rehabilitated to the maximum extent practicable.

350-81-560(5)(e) The structure complies with all applicable federal, state, and county laws.

350-81-570(5)(e) The structure complies with all applicable federal, state, and county laws.

A condition of approval is included in the Director's Decision requiring compliance with all applicable federal, state, and county laws.

6. As conditioned, the proposed replacement signs meet the applicable resource protection guidelines for wetlands and their buffer zones in Commission Rule 350-81-560 and the applicable resource protection guidelines for streams, ponds, lakes, and riparian areas, and their buffer zones in Commission Rule 350-81-570.
7. Commission Rule 350-81-580 describes natural resource protection guidelines for review uses in sensitive wildlife areas, sites, and their buffer zones.
8. Commission Rule 350-81-580(1) contains standards for identifying sensitive wildlife areas and requirements for applications near wildlife sites. The proposed replacement signs are located adjacent to the Columbia River which is identified as salmon habitat, and adjacent to Horsethief Lake which is identified as winter habitat for waterfowl. An adequate site plan was submitted with this application, and was sent to the Washington Department of Fish and Wildlife on February 9, 2017. No comments were received.
9. The proposed development is for the replacement of two railroad crossing signs. Staff finds the replacement signs will not create any new impacts to wildlife. Due to the limited size of development, the minimal impacts to grading, and the nature of the development, staff finds the replacement of the existing signs will not have an adverse impact on wildlife.

10. Commission Rule 350-81-590 describes natural resource protection guidelines for review uses in sensitive plant sites and their buffer zones.
11. Commission Rule 350-81-590(1) contains standards for identifying sensitive plants areas. An adequate site plan was submitted with the application. Notice was sent to the Washington Natural Heritage Program on February 9, 2017. On February 13, 2017, Jasa Holt, Data Specialist with the Washington Natural Heritage Program, responded that there were no records of sensitive plant areas within 1000 feet of the project site. Staff reviewed Commission inventories in early January, 2021 and also found no sensitive plant species within 1000 feet of the project site. As proposed, the replacement of the existing sites will not have an adverse effect on sensitive plants.

CONCLUSION:

The proposed replacement signs are consistent with the review use guidelines in Commission Rules 350-81-560, 350-81-570, 350-81-580, and 350-81-590 that protect natural resources in the National Scenic Area.

F. TREATY RIGHTS PROTECTION

1. Commission Rule 350-81-084(1) describes the treaty rights protection guidelines for review uses in the General Management Area.
2. Commission Rule 350-81-084(1)(a) lists additional notice materials for new uses 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 proposed development is to replace existing railroad signs. There is no new use associated with this proposal. Pursuant to other noticing requirements, notice of the proposal was mailed or emailed to the four tribal governments on February 9, 2017. The notice included a comment period of 21 days that ended on March 2, 2017.

3. Commission Rule 350-81-084(1)(b) lists guidelines for tribal government consultation when those governments submit substantive written comments. No comments were received during the 21-day comment period. Given this information, the proposed development is consistent with Commission Rule 350-81-084(1)(b).
4. Commission Rule 350-81-084(c)(B) states:

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

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

CONCLUSION:

The proposed replacement signs are consistent with the review use guidelines in Commission Rule 350-81-084(1) that protect treaty rights in the National Scenic Area.

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