COLUMBIA RIVER GORGE COMMISSION
DIRECTOR’S DECISION

CASE FILE: C22-0008

PROPOSAL: The Columbia River Gorge Commission has received an application for a wetland restoration project.

APPLICANT: Underwood Conservation District

LANDOWNER: Frank Slavens

LOCATION: The subject property is located at 238 Old Hwy, Lyle, WA in the SE ¼ of Section 29 and the SW ¼ of Section 28, Township 3 North, Range 12 East, Willamette Meridian, Klickitat County, Washington.
Tax Lot Numbers: 03-12-2907-6801/00 (35 acres) & 03-12-2800-0015/00 (5 acres).

LAND USE DESIGNATION: General Management Area (GMA) – Small-Scale Agriculture (40)

DECISION: Based upon the following findings of fact, the land use application by Underwood Conservation District, for a wetland restoration project 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 approachable 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 approachable 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 C22-0008, and approved site plan shall be recorded in county deeds and records at the Klickitat County Auditor’s Office. Once recorded, the applicants shall submit a copy of the recorded documents to the Executive Director.

2. This decision does not exempt the proposal from other non-Scenic Area rules and regulations. It is the applicant’s responsibility to ensure the use complies with all other applicable federal, state, and county laws and to obtain necessary approvals, including utility easement approvals.
3. Any new land uses or structural development, alterations, or grading not included in the approved application or site plan will require a new application and review.

4. Disturbed areas shall be revegetated with at least 80 percent vegetative coverage within one year.

5. The applicant shall monitor new vegetation each spring to ensure at least 80 percent vegetative coverage for five consecutive years.

6. Disturbed ground shall be seeded with a native seed mix. The applicants are encouraged to use a certified weed-free seed mix. Staff is providing the applicants with a list, *Recommended Seed Mixes for East Side Environments*, which is an attachment to the Director’s Decision. The list provides seed and grass mixes available locally for dry eastern gorge climates.

7. To the maximum extent practicable, all existing tree cover and vegetation shall be retained and protected from damage, unless otherwise deemed necessary for safety purposes.

8. If cultural resources are discovered, 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, 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 applicant shall notify the Gorge Commission within 30 days of project completion to arrange for a Final Inspection to confirm compliance with all of the conditions of approval. Project completion means completion of all work to the exteriors of structures (including painting). The applicants shall arrange the inspection by calling the Gorge Commission at (509) 493-3323 or info@gorgecommission.org.

DATED AND SIGNED THIS 23 day of August 2022 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 23rd day of August 2024 unless construction has commenced in accordance with Commission Rule 350-81-044(4).

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

Construction must be completed within two years of the date the applicant commenced construction. The date of the Executive Director’s preconstruction inspection to confirm the location of proposed structural development as required by this decision shall be considered the date the applicant commenced construction, unless the applicant demonstrates otherwise.

Once the applicant has commenced construction of one element in this decision, the applicant will need to complete all elements in this decision in accordance with Commission Rule 350-81-044. The Commission does not use different “commencement of construction” dates for different elements in this decision.

The applicant may request one 12-month extension of the time period to commence construction and one 12-month extension to complete construction in accordance with Commission Rule 350-81-044(6). The applicant must submit the request in writing prior to the expiration of the approval. If the applicant requests an extension of time to complete construction after commencing construction, the applicant shall specify the date construction commenced. The Executive Director may grant an extension upon determining that conditions, for which the applicant is not responsible, would prevent the applicant from commencing or completing the proposed development within the applicable time limitation. The Executive Director shall not grant an extension if the site characteristics and/or new information indicate that the proposed use may adversely affect the scenic, cultural, natural or recreation resources in the National Scenic Area.

APPEAL PROCESS:
The appeal period ends on the 22nd day of September 2022.
The decision of the Executive Director is final unless the applicants or any other person who submitted comment files a Notice of Intent to Appeal and Petition with the Commission within thirty (30) days of the date of this decision. Information on the appeal process is available at the Commission office.

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

This decision does not address local, state, or federal requirements that may be applicable to the proposed development. The landowner is responsible for obtaining all applicable county, state, or federal permits required for the development.
c: Confederated Tribes and Bands of the Yakama Nation
Confederated Tribes of the Umatilla Indian Reservation
Confederated Tribes of Warm Springs Reservation of Oregon
Nez Perce Tribe
U.S. Forest Service National Scenic Area Office
Washington Department of Archaeology and Historic Preservation
Klickitat County Planning Department
Klickitat County Building Department
Klickitat County Public Works Department
Klickitat County Health Department
Klickitat County Assessor
Washington Natural Heritage Program
Washington Department of Fish and Wildlife
Steve McCoy, Friends of the Columbia Gorge
Howard Johnston, neighbor

Attachments:
Staff Report for C22-0008
Approved site plans and elevation drawings
Recommend Seed Mixes for East Side Environments
Western Pond Turtle Habitat Enhancement - Frank Slavens
restoration and enhancement of natural wetland features to increase habitat for native wetland species

LOCATION DETAIL:
ADDRESS: 238 Old Highway 8, Lyle, WA
LATITUDE: 45.71453
LONGITUDE: -122.3194
PARCEL #: 0312290760100 and 0312280001500
SECTION: S29 T3N R12E
WATERSHED: Columbia River

Sheet No. | Description
---|---
1 of 12 | Cover Sheet
2 of 12 | General Notes
3 of 12 | Existing Conditions
4 of 12 | Access Routes and Work Areas
5 of 12 | Phase 1 Overview
6 of 12 | Phase 1 Detailed
7 of 12 | Phase 2 Overview
8 of 12 | Phase 2 Detailed
9 of 12 | Phase 3 Overview
10 of 12 | Phase 3 Detailed
11 of 12 | Misc. Feature Design
12 of 12 | Budget, Timeline, Materials

Underwood Conservation District
171 NW Washington St.
White Salmon, WA 98672
509-637-7003

SCALE:
HOR: 1"=N/A
VER: 1"=N/A

BY | DATE | REVISIONS | FOR:
Preliminary for Permit review

Wet Meadow Restoration - Frank Slavens

Landowner: Frank Slaven

COVER SHEET

APPROVED
Purpose of Project
This project will restore and enhance historic wetlands on a field that was historically ditched and drained for agriculture. This field is adjacent to a state-owned wildlife area that is managed for the benefit of western pond turtles endemic to the site, as well as other wetland organisms.

Landownership
Entire work area including access roads, staging area are privately owned by Frank Slavens.

Project Objectives
- Restore wetland hydrology to ~2.5 acres;
- Excavation of two ponds;
- Re-shaping of an existing agricultural pond to restore habitat suitability;
- Plant appropriate suite of native species (+/- 500 stems) to support pond function and turtle habitat;
- Creation of 6,000 Sq. Ft. of suitable nesting habitat adjacent to new ponds;
- Post-construction outreach activities, likely to include two educational site visits with partner agencies and/or landowners.

Setting
The western pond turtle (Actinemys marmorata) is one of Washington's two native freshwater turtles and are listed as Endangered within Washington State. The turtle is endemic to the Columbia River Gorge, but now exists only at seven sites on the Washington side of the Columbia River Gorge. One of these sites, near Lyle, is owned by the Washington Department of Fish & Wildlife (WDFW) and is one of only two sites in the state of Washington where a viable population of turtles was found during searches in the 1980s. The WDFW wildlife area is adjacent and immediately east and north of the Slavens' property. The site is a long east-west oriented series of fields, now primarily used for haying, with an agricultural ditch running along one side as part of a drainage system installed sometime in the past. Onsite springs and drainage, as well as ponds in the adjacent WDFW property, demonstrate a capacity to hold water.

Construction
The restoration project will be constructed using a phased approach. Phase 1 includes the construction of one new excavated pond "East Pond" and the installation of a buried overflow pipeline to an existing pond.

Phase 2 includes invasive species control measures as well as the construction of a long and narrow impoundment pond that is oriented at a natural low point near the confluence of the agricultural ditch and road drainage ditch in the center of the property. Fill material for impoundment will be supplied by excess cut from East Pond construction.

Phase 3 consists of re-grading the existing "Stable Pond" located on the west end of the property. The Stable Pond is currently 10+ feet deep with steep (~3:1) side slopes. The pond will be filled in to a maximum depth of 5 ft. and widened to accommodate 7:1 side slopes.

Construction activities will be timed and conducted in a manner to avoid unnecessary disturbance to western pond turtles during key life stages; WDFW will provide technical assistance related to this issue.

Planting Plan
Approximately 250 Native Trees and Shrubs including Ash, Cottonwood, White Oak, Mock Orange, Oceanspray, Wild Rose and Snowberry. All disturbed ground will be seeded with native seed mix.
Site Description - Existing Conditions

Property has been used as a residence and hayfield for several decades. Three wetland areas have been identified within work areas where restoration actions are being considered. The hayfield has been seeded with tall fescue and is mowed one or more times per year. A ditch runs from east-west along the property with road and hillside drainage entering the ditch at multiple laterals from culverts under Old Hwy 8. Two existing deep (>10 ft. depth) ponds and one shallow landscape pond are present on the property.
Phase 1 Restoration Activities:
- Construct new 14,500 Sq. Ft. "East Pond"
- Install overflow pipe from "East Pond" to existing "Dam pond"
- Use excavation spoils to create 6,000 sq. ft. of Western Pond Turtle nesting habitat
- Stockpile 800 yards of soil for use in Phase 2 pond construction

Phase 2 Restoration Activities:
- Construct new 34,000 Sq. Ft. "Phase 2 Pond"
- Invasive species treatment and native planting around Phase 1 and Phase 2 as needed

Phase 3 Restoration Activities:
- Re-grade existing "Stable Pond"
Phase 1 Activities:
1. Construct new 14,500 Sq. Ft. Pond
2. Use Fill Material to Create 6,000 Sq. Ft. of Western Pond Turtle Nesting Habitat.
3. Construct ~130 ft. of buried 2" PVC overflow pipeline.
4. Plant ~75 native trees and shrubs in area between road and new pond and along NE corner of pond.
5. Place at least two habitat features in newly constructed pond, features will be partially exposed during all times of year to provide basking opportunities as well as cover from predation. Habitat features will created with from trees with rootballs attached.
East Pond Design Detail:
- Clay or synthetic liner shall be installed along bottom of pond- install detail TBD based on soils investigation
- Create 6,000 sq. ft. of nesting habitat around east edge of pond by spreading excess cut material in a 1 ft. layer. Nesting soils shall be treated to prevent vegetative re-growth
- 2" PVC overflow pipe set at 470.5' to be connected to stand pipe at existing pond, bury depth and slope TBD.

East Pond Geometry:
- Pond bottom Elev. = 465', Target water surface Elev. = 470.5'
- Side slopes = 5:1
- Top of Pond Elev. = 471', notched overflow on SW edge at 470.5'
- Flat 6 ft. wide access route along top of pond for maintenance
- Grade to existing ground surface around outside of pond at 3:1 slope
- Total pond surface area = 14,500 sq. ft.
- Cut (red) and fill (green) cross sections shown below.

Underwood Conservation District
171 NW Washington St,
White Salmon, WA 98672
509-637-7002

SCHEDULE:
HOR:1"=30' VER:1"=N/A

BY DATE REVISIONS FOR:

Preliminary for Permit review

Phase 1 - Pond Design
Landowner: Frank Slavens

SHEET 06/12
Phase 2 Activities:
1. Construct new 34,000 Sq. Ft. Pond
2. Pond location is a natural low point in the center of the property where drainage ditch from north hillside meets main agricultural ditch that runs east-west.
3. Pond is not intended to hold deep water year-round. This "wetland" pond is not lined, water level will fluctuate through the year to provide shallow water habitat for hibernation life stages and cover from predation.
4. East end of pond is vegetated with mix of native trees and shrubs, an additional ~100 native trees and shrubs will be planted around newly constructed pond focusing on the west and north edges of the pond.
5. Place at least three dead wood habitat features in newly constructed pond.
Phase 2 Pond Geometry:
- Pond bottom Elev. = 445.0',
- Max water surface Elev. = 449.0'
- Side slopes = 7:1
- Top of Pond Elev. = 449.5', notched overflow on west edge at Elev. 449.0''
- Flat 6 ft. wide access route along top of pond for maintenance at Elev. 449.5'
- Grade to existing ground surface around outside of pond at 3:1 slope
- Total surface area = 34,000 Sq. Ft.
- Total Cut = 1397 Cu.Yd.
- Fill = 2227 Cu. Yd.
- Net Material = 829 Cu.Yd. Fill (to be supplied by excess material from Phase 1 excavation)
- Cut (red) and fill (green) cross sections shown below.
Phase 3 Activities:
1. Re-grade Existing Stable Pond
2. Pond footprint shall be expanded from 6,793 Sq Ft. to 12,225 Sq. Ft. Side slopes will be pulled back from 3:1 to 7:1.
3. Install pond liner (synthetic vs. clay TBD based on soil testing)
4. North edge of pond will be planted with native trees and shrubs, approximately 150 plants.
5. Place at least two dead wood habitat features in newly constructed pond.
Stable Pond Geometry:
- Pond bottom Elev. = 433.0', Target water surface Elev. = 438.0'
- Side slopes = 7:1
- Top of Pond Elev. = 440.0', notched overflow on west edge at 438.0'
- Flat 6 ft. wide access route along top of pond for maintenance
- Grade to existing ground surface around outside of pond at 3:1 slope
- Total pond surface area = 12,500 sq. ft.
- Cut (red) and fill (green) cross sections shown above.
Stand Pipe Detail

valve box w/ cover
min. 6" above surface

pond water surface level controlled by stand pipe

2" steel stand pipe with strainer

gate valve
2" pvc drain pipe

connects to existing buried pipeline
rock or other solid base material under 90 deg. fitting

Pipe Trench Detail

natural ground

native ground backfill
mound 4" to 8" with topsoil above natural ground

Typical Habitat Structures

typical bank attached habitat structure

typical basking structure (floating)

bottom of pond

Pond liner, detail TBD based on soils investigation

top of pond

Underwood Conservation District
171 NW Washington St, White Salmon, WA 98672
509-837-7002

SCALE:
HOR: 1" = N/A
VER: 1" = N/A

DESIGNER: CL
DRAFTER: CL
DATE: 1/1/22

BY DATE REVISIONS FOR:

Preliminary for Permit review

Landowner: Frank Slavens

Wet Meadow Restoration - Frank Slavens

Misc. Detail

SHEET

APPROVED

Frank Slavens
### Target Project Timeline

<table>
<thead>
<tr>
<th>Project Component</th>
<th>Start Date</th>
<th>End Date</th>
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<tr>
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<td>6/1/2022</td>
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<tr>
<td>Contracting for Phase 1 and Phase 2</td>
<td>5/1/2023</td>
<td>8/1/2023</td>
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<td>Pre-construction layout and monitoring</td>
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<td>10/1/2023</td>
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<td>11/15/2023</td>
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<td>Post-construction monitoring</td>
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<td>Phase 3 Construction</td>
<td>9/1/2023</td>
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### Draft Materials List

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<tr>
<td>Log w/roots (w)</td>
<td>~24&quot; diam x ~12&quot; length</td>
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<td>Rocking logs w/ rockwads</td>
<td>misc., ~5'-diam lengths</td>
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<td>Pond liner (Synthetic)</td>
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<td>Imported clay for pond lining</td>
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<tr>
<td>PVC pipe</td>
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<tr>
<td>Misc fittings for stand pipe</td>
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### Opinion of Probable Costs by Phase

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<td>1,200.00</td>
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<td>Phase 3 (total)</td>
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<td>27,041.00</td>
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**Total Project Cost**: $ 98,095.50

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**Underwood Conservation District**

** SCALE: HOR:1"=50' VER:1"=N/A **

**DESIGNER: CL**

**DRAFTER: CL**

**DATE: 1/1/22**

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**FOR:**

- Preliminary for Permit review

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**Budget, Timeline, Materials**

**Landowner:** Frank Slavens

**SHEET 12**
Recommended Seed Mixes, Mulch, and Fertilizer
for Temporary and Permanent Revegetation in East Side Environments
Based on recommendations from Andrea Ruchty, district botanist, GPNF, Mt. Adams Dist., and Robin Dobson, CRGNSA botanist

Native Seed Mixture #1: Recommendations for Composition and Application Rates

<table>
<thead>
<tr>
<th>Species</th>
<th>Hand Seeding including Handheld Spreaders</th>
<th>Hydromulcher</th>
</tr>
</thead>
<tbody>
<tr>
<td>blue wildrye (Elymus glaucus)</td>
<td>20 lbs/acre</td>
<td>15 lbs/acre</td>
</tr>
<tr>
<td>California brome (Bromus carinatus)</td>
<td>20 lbs/acre</td>
<td>15 lbs/acre</td>
</tr>
<tr>
<td>slender hairgrass (Deschampsia elongata)</td>
<td>10 lbs/acre</td>
<td>5 lbs/acre</td>
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<tr>
<td>broadleaf lupine (Lupinus latifolia)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Idaho fescue (Festuca idahoensis)</td>
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<td></td>
</tr>
<tr>
<td>Total</td>
<td>50 lbs/acre</td>
<td>35 lbs/acre</td>
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Native Seed Mixture #2: Recommendations for Composition

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

Non-Native Seed Mixture: Recommendations for Composition and Application Rates

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<tr>
<th>Species</th>
<th>Application Rate</th>
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<tbody>
<tr>
<td>Annual ryegrass (Lolium multiflorum)</td>
<td>10 lbs/acre (fine seed)</td>
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<tr>
<td>Perennial ryegrass (L. perenne)</td>
<td>10 lbs/acre (fine seed)</td>
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<tr>
<td>Soft white winter wheat (Triticum aestivum)</td>
<td>40 lbs/acre</td>
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<tr>
<td>Sickle-keeled lupine (Lupinus albicaulis)</td>
<td>10 lbs/acre</td>
</tr>
<tr>
<td>TOTAL</td>
<td>70 lbs/acre</td>
</tr>
</tbody>
</table>

Herbaceous plants can be added after seeding:
- Chrysothamnus nauseosus (rabbitbrush)
- Achillea millefolium (Yarrow)
- Eriogonum strictum
- Lupinus bicolor or latifolius var. thompsonianus
- Eriophyllum lanatum (Oregon sunshine)
- Bitter brush (Purshia tridentate)
- Arrowleaf Balsam root

1-2 oz./ac.
1-2 oz./ac.
1-2 oz./ac.
1-2 oz./ac.
1-2 oz./ac.
10 small plants/ac.
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)

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/](http://www.certifiedwallowacountyhay.com/)
- John Williams, OSU Extension in Wallowa County, 541-426-3143.
- Allen Schnetzky, Weed Supervisor, Wallowa County 541-426-3332.
COLUMBIA RIVER GORGE COMMISSION
STAFF REPORT

CASE FILE: C22-0008

PROPOSAL: The Columbia River Gorge Commission has received an application for a wetland restoration project.

APPLICANTS: Underwood Conservation District

LANDOWNER: Frank Slavens

LOCATION: The subject property is located at 238 Old Hwy, Lyle, WA in the SE ¼ of Section 29 and the SW ¼ of Section 28, Township 3 North, Range 12 East, Willamette Meridian, Klickitat County, Washington.
Tax Lot Numbers: 03-12-2907-6801/00 (35 acres) & 03-12-2800-0015/00 (5 acres)

LAND USE DESIGNATION: General Management Area (GMA) – Small-Scale Agriculture (40)

COMMENTS FROM INDIVIDUALS/AGENCIES/GOVERNMENTS:

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

- Confederated Tribes and Bands of the Yakama Nation
- Confederated Tribes of the Umatilla Indian Reservation
- Confederated Tribes of Warm Springs Reservation of Oregon
- Nez Perce Tribe
- U.S. Forest Service National Scenic Area Office (USFS CRGNSA)
- Washington Department of Archaeology and Historic Preservation (DAHP)
- Klickitat County Planning Department
- Klickitat County Building Department
- Klickitat County Public Works Department
- Klickitat County Health Department
- Klickitat County Assessor
- Skamania County
- Washington Natural Heritage Program
- Washington Department of Fish and Wildlife (WDFW)
- Friends of the Columbia Gorge
Written comments were received from:

Steve McCoy, Staff Attorney, Friends of the Columbia Gorge
Chris Donnemeyer, Heritage Resource Program manager, USFS CRGNSA
Howard Johnston, neighbor

FINDINGS OF FACT:

A. LAND USE

1. Frank Slavens and Underwood Conservation District have applied for a wetland restoration project on Mr. Slavens’ property.

2. The subject parcels are in the General Management Area (GMA) and is designated Small-Scale Agriculture with a 40-acre minimum parcel size. The subject parcels are approximately fifty-seven acres and five acres in size. The site is located in Klickitat County, Washington approximately 2 miles northwest of Lyle, on the south side of Old Hwy 8.

3. The land has been used as a residence and hayfield for several decades. The owner purchased the property in 2006 and has used the land for hay production, periodic grazing, and as a residence. Previous Development on the property includes improvements to the existing irrigation system, approved in Director’s Decision C07-0003, an addition to the existing house, approved in Director’s Decision C07-0007, and a land division, approved in Director’s Decision C07-0018.

4. Commission Rule 350-81-190(1)(m) allows resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104).

5. Commission Rule 350-81-104(1) describes resource enhancement projects. It states:

   Applications for resource enhancement projects must describe the goals and benefits of the proposed enhancement project. They must also thoroughly document the condition of the resource before and after the proposed enhancement project.

The western pond turtle is one of Washington’s two native freshwater turtles and are listed as Endangered within Washington State. The turtle is endemic to the Columbia River Gorge, but now exists only at four sites on the Washington side of the Columbia River Gorge. One of these sites, the Sondino ponds wildlife unit, is owned by the Washington Department of Fish & Wildlife (WDFW). The WDFW wildlife area is adjacent and immediately northeast of the Slavens’ property.
The purpose of the proposal is to restore and enhance historic wetlands on a field that was historically ditched and drained for agriculture. The entire project site has been determined to be wetland but has been used as a hayfield for several decades. The proposal will restore approximately 1.5 acres of wetland habitat including three ponds. The proposal identifies three areas for restoration and includes a grading plan for each of the new ponds and a phased timeline for the construction activities. The project will create two new 14,500 sq ft and 34,000 sq ft ponds, reshape an existing pond to 12,225 sq ft, and create 6,000 sq ft of suitable nesting habitat for western pond turtles. The ponds will include approximately 300 native plants, trees, and shrubs to enhance wetland function and turtle habitat.

CONCLUSION:

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

B. SCENIC RESOURCES

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

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

   No new buildings or roads are proposed.

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

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

   No new buildings or roads are proposed.

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

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

   No new screening vegetation is required by the guidelines of Commission Rule 350-81-520. To mitigate for alterations to the vegetative cover and natural characteristics of the site, a condition of approval is included requiring the applicants to reseed all exposed and bare soils after the development is completed with a native seed mix. The applicants are encouraged to use a certified weed-free seed mix. Staff is providing the applicants with a
list, *Recommended Seed Mixes for East Side Environments*, which is an attachment to the Director’s Decision. The list provides seed and grass mixes available locally for dry eastern gorge climates.

To enhance wetland function and turtle habitat, the applicants propose to plant approximately 300 native trees and shrubs including ash, cottonwood, white oak, mock orange, ocean spray, wild rose, and snowberry. The plantings will improve vegetative structure, adding a scrub-shrub and forested area that will have at least three vegetative strata present. A condition of approval is included requiring the applicant to monitor the new vegetation each spring to ensure at least 80 percent vegetative coverage for five consecutive years.

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

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

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

5. Commission Rule 350-81-520(2) contains guidelines that affect developments on sites visible from KVAs. Staff determined the subject parcel is topographically visible from one KVA: Rowena Plateau. Because the proposed development is topographically visible from KVAs, the guidelines of Commission Rule 350-81-520(2) are applicable. The proposed development is visible from the KVAs at the following distance zones:

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

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

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

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

The Director’s Decision contains requirements and conditions of approval to ensure the
development is visually subordinate. Several factors ensure the proposed development is
visually subordinate as viewed from KVAs, including the nature of the project, the lack of
proposed buildings, the distance from KVAs, site location, existing topography, proposed
native plantings, and existing screening vegetation.

7. Commission Rule 350-81-520(2)(c) states that the determination of potential visual effects
and compliance with visual subordinance policies shall include consideration of the
cumulative effects of proposed developments. Commission Rule 350-81-020(40) defines
cumulative effects as:

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

To consider the cumulative visual effects associated with the proposed development, staff
considered parcels in the NSA within a quarter mile of the subject parcel. This area is
primarily used for residences and agricultural uses near Old Highway 8 and the Sondino
ponds wildlife unit, which is managed by WDFW. The parcels in this area are designated
GMA Small-Scale Agriculture and GMA Open Space. The subject parcel and surrounding
parcels are in an area where existing homes and accessory buildings are uncommon and
sparsely visible throughout the landscape from the KVAs due to the distance, existing
vegetation and topography. As seen from KVAs in the background, the development will
be difficult to distinguish from its surroundings because of its natural appearance.

The purpose of the proposal is to restore wetlands. The Director’s Decision contains
requirements and conditions of approval to ensure the development is visually
subordinate. Several factors ensure the proposed development is visually subordinate as
viewed from KVAs, including the nature of the project, the lack of proposed buildings, the
distance from KVAs, site location, existing topography, proposed native plantings, and
existing screening vegetation. As designed and conditioned, the proposed development
will not cause adverse scenic impacts, and will not cause adverse cumulative scenic
impacts, consistent with Commission Rule 350-81-520(2)(c).

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

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

(A) Decisions shall include written findings addressing the factors influencing
potential visual impact, including but not limited to:
(i) The amount of area of the building site exposed to Key Viewing Areas.
(ii) The degree of existing vegetation providing screening.
(iii) The distance from the building site to the Key Viewing Areas from which it is visible.
(iv) The number of Key Viewing Areas from which it is visible.
(v) The linear distance along the Key Viewing Areas from which the building site is visible (for linear Key Viewing Areas, such as roads).

The site is only visible from one KVA, Rowena Plateau, which is over three miles away. The proposal does not include any permanent above-ground structures or development beyond the creation of the ponds. The potential for visual impacts as seen from the KVA is minimal.

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

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

The proposal is for a wetland restoration project. The nature of the development will render the development visually subordinate. No trees are proposed to be removed, and no new screening landscaping is required by this Decision. Nevertheless, staff requires the following conditions to be implemented as part of the final decision to ensure that the overall visual character and appearance of the landscape is retained: to the maximum extent practicable, all existing tree cover and vegetation shall be retained and protected from damage, unless otherwise deemed necessary for safety purposes.

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

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

As addressed in Sections C and D, the proposed development is consistent with the applicable cultural resource rules in Commission Rule 350-81-550 and the natural resource rules in Commission Rule 350-81-600.
11. Commission Rule 350-81-520(2)(f) states:

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

The wetland enhancement project will take place on an existing wetland. The purpose of the project is to restore the area back to a natural state and enhance western pond turtle habitat. The nature of the development will render the development *visually subordinate*, despite its visibility and proximity to KVAs. No trees are proposed to be removed, and no new screening landscaping is required by this Decision.

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

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

The subject parcel is in the Pastoral landscape setting. Findings for the Landscape Settings Design Guidelines are addressed below.

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

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

No new buildings are proposed.

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

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

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

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

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

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

No new screening landscaping is required to screen development from KVAs.

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

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

No new structures are proposed except for the ponds.

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

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

No new buildings are proposed.

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

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

No exterior lighting is proposed.
18. Commission Rule 350-81-520(2)(z) states:

\begin{quote}
Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill slopes from Key Viewing Areas.
\end{quote}

No driveways or buildings are proposed.

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

The applicant submitted a grading plan consistent with the requirements of this rule. Staff used the grading plan to analyze compliance with KVA policies.

20. The Landscape Settings Map for Columbia River Gorge National Scenic Area classifies the subject parcel as Pastoral. Commission Rules 350-81-520(3)(a)(A) and (B) contain applicable guidelines for the proposed development in the Pastoral landscape setting.

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

\begin{quote}
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.
\end{quote}

No accessory structures, outbuildings, and access ways are proposed.

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

\begin{quote}
(B) In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordinance for new development and expansion of existing development:
(i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from key viewing areas shall be retained.
(ii) Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.
(iii) 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 fruit trees, Douglas-fir, Lombardy poplar (usually in rows), Oregon white oak, big leaf maple, and black locust (primarily in the eastern Gorge).
(iv) At least one-quarter of any trees planted for screening shall be coniferous for winter screening.
\end{quote}

No trees are proposed to be removed. However, to ensure that the overall visual character and appearance of the landscape is retained: to the maximum extent practicable, all
existing tree cover and vegetation shall be retained and protected from damage, unless otherwise deemed necessary for safety purposes.

No new screening vegetation is required by the guidelines of Commission Rule 350-81-520. To mitigate for alterations to the vegetative cover and natural characteristics of the site, a condition of approval is included requiring the applicants to reseed all exposed and bare soils after the development is completed. To enhance wetland function and turtle habitat, the applicants propose to plant approximately 300 native trees and shrubs including ash, cottonwood, white oak, mock orange, ocean spray, wild rose, and snowberry. A condition of approval is included requiring the applicant to monitor the new vegetation each spring to ensure at least 80 percent vegetative coverage for five consecutive years.

**CONCLUSION:**

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

**C. CULTURAL RESOURCES**


2. Chris Donnermeyer, Heritage Resource Program Manager, USFS Columbia River Gorge National Scenic Area, reviewed the land use application and determined in a Cultural Resources Survey Determination letter, dated March 29, 2022, that pursuant to Commission Rule 350-81-540(1)(c)(A)(iii) a Cultural Resource Reconnaissance Survey is required because the proposed use would occur on a site that has been determined to be located within a high probability zone.

3. Kim Lancaster, M.A. was retained by the Underwood Conservation District, and conducted a field survey and prepared a Reconnaissance Survey Report of the proposed development, titled *Cultural Resources Inventory for the Slavens Western Pond Turtle Habitat Enhancement Project, Klickitat County, Washington (DAHP Log No 2021-11-08180-WSCC)*. The report is confidential because it gives site specific information about cultural resources near the development.

4. Chris Donnermeyer, USFS Heritage Program Manager, received and reviewed the Heritage Resource Inventory Report for compliance with the requirements for reconnaissance surveys and survey reports for Small-Scale Uses in Commission Rules 350-81-540(1)(c)(D) and (E) and submitted his comments in a letter on August 15, 2022. Mr. Donnermeyer concurred with Ms. Lancaster’s evaluation of No Historic Properties Affected for the proposed development and agrees that no additional archeological work is necessary.
5. Commission Rule 350-81-540(1)(c)(B) describes when a historic survey is required. In his April 25, 2022, Cultural Resources Survey Determination letter, Mr. Donnermeyer determined that a historical survey is not required because the proposed use would not alter the exterior architectural appearance of significant buildings and structures that are 50 years old or older and would not compromise features of the surrounding area that are important in defining the historic or architectural character of significant buildings or structures that are 50 years old or older.

6. Commission Rule 350-81-540(2)(a)(A) and (B) allow interested parties who so request during the comment period to consult with the applicant and request ethnographic research regarding cultural resources. No such consultation or research was requested of the applicant during the comment period.

7. Commission Rules 350-81-540(2)(b) and (3)(b) require the Executive Director to submit a copy of all cultural resource survey reports and assessments of effect to the State Historic Preservation Officer (SHPO) and the Indian tribal governments for their review. The rules provide for a 30-day comment period to submit written comments. Underwood Conservation District provided the original Reconnaissance Survey Report to DAHP and the Indian tribal governments on February 17, 2022. Staff provided the Heritage Resource Inventory Report and Mr. Donnermeyer’s letter to the State Historic Preservation Office and the four Columbia River Treaty Tribes on August 17, 2022. The comment period ends September 16, 2022.

8. Commission Rule 350-81-540(4)(c)(B) states:

   The cultural resource protection process may conclude if the proposed use would have no effect or no adverse effect on significant cultural resources.

   Mr. Donnermeyer concurred with Ms. Lancaster’s recommendation of No Historic Properties Affected. Initial notice of the proposed development was mailed to interested parties on March 22, 2022. No concerns were voiced within 21 calendar days of that notice. Staff provided the Heritage Resource Inventory Report and Mr. Donnermeyer’s letter to the State Historic Preservation Office and the four Columbia River Treaty Tribes on August 17, 2022.

9. Commission Rule 350-81-540(1)(g) requires consideration of cumulative effects of proposed developments that require a reconnaissance or historic survey, a determination of significance, an assessment of effect, or a mitigation plan. 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.
In her report, Ms. Lancaster makes the determination No Historic Properties Affected. Ms. Lancaster’s determination also means there are no adverse cumulative effects to cultural resources.

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

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

CONCLUSION:

With conditions protecting unknown cultural resources and human remains discovered during construction, the proposal is consistent with the guidelines in Commission Rule 350-81-540 that protects cultural resources in the National Scenic Area.

D. NATURAL RESOURCES

1. Commission Rule 350-81 provides guidelines for protecting wetlands (Section 560); streams, ponds, lakes, and riparian areas (Section 570); sensitive wildlife areas and sites (Section 580); and sensitive plants (Section 590).

2. The purpose of the proposal is to restore and enhance historic wetlands on a field that was historically ditched and drained for agriculture. The existing wetland is managed agriculturally as a hayfield and has been seeded with tall fescue. The entire project site has been determined to be wetland. Commission Rule 350-81-560 has rules for the protection of wetlands in the GMA.

3. Commission Rule 350-81-560(1) states:

   Wetlands Boundaries and Site Plans for Review Uses in Wetlands
   (a) If the proposed use is within a wetland or wetlands buffer zone, the applicant shall be responsible for determining the exact location of the wetland boundary.
   (A) The approximate location and extent of wetlands in the Scenic Area is shown on the National Wetlands Inventory (U.S. Department of the Interior 1987). In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands. Wetlands boundaries shall be delineated using the procedures specified in the Corps of Engineers Wetlands Delineation Manual.

(B) All wetlands delineations shall be conducted by a professional which has been trained to use the federal delineation process, such as a soil scientist, botanist, or wetlands ecologist.

(C) The Executive Director may verify the accuracy of, and may render adjustments to, a wetlands boundary delineation. In the event the adjusted boundary delineation is contested by the applicant, the Executive Director shall, at the applicant’s expense, obtain professional services to render a final delineation.

(b) In addition to the information required in all site plans, site plans for proposed uses in wetlands or wetlands buffer zones shall include:

(A) a site plan map prepared at a scale of 1-inch equals 100 feet (1:1,200), or a scale providing greater detail;

(B) the exact boundary of the wetland and the wetlands buffer zone; and

(C) a description of actions that would alter or destroy the wetland.

The applicant provided adequate site plans showing the location of all proposed development along the full extent of the project area. Following other noticing requirements, copies of the site plan were provided to Washington Natural Heritage Program, U.S. Forest Service, and Washington Department of Fish and Wildlife on March 22, 2022.

Underwood Conservation District submitted a Wetland Delineation Report to support compliance with this rule. The delineation report was prepared by Brent Haddaway with Cascade Environmental Group, in November 2021. The report states the wetland is a slope wetland, supported by a perennial spring that originates in the east work area; flows from that spring are also piped underground to support a perennially ponded segment of the primary ditch. The wetland was delineated using the methods outlined in the 1987 Corps of Engineers Wetlands Delineation Manual and the 2008 Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region. The applicant identified a 75-foot buffer, as required by the Gorge Commission Land Use Ordinance for Klickitat County. The report states that the wetland was delineated totaling 4.23 acres across three separate work areas to the hayfield areas in between. The entire area delineated has been determined to be wetland.

4. Commission Rule 350-81-560(2) states:

    Commission Rule 350-81-560 shall not apply to proposed uses that would occur in the main stem of the Columbia River...

The project is not located in the main stem of the Columbia River. Commission Rule 350-81-560 applies to the project.
5. Commission Rule 350-81-560(3) states:

The following uses may be allowed in wetlands and wetlands 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. Proposed uses in wetlands and wetland buffer zones shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.

(a) 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 purpose of the proposal is to restore and enhance historic wetlands on a field that was historically ditched and drained for agriculture. The existing wetland is managed agriculturally as a hayfield and has been seeded with tall fescue. The entire project site has been determined to be wetland. No structures are proposed except for the excavation of three seasonal ponds. The project would include grading to create the seasonal ponds. The proposal will restore approximately 1.5 acres of wetland habitat including three ponds and 6,000 sq ft of suitable nesting habitat for western pond turtles.

6. Commission Rule 350-81-560(5) states,

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;
(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;
(c) The structure will be constructed using best management practices;
(d) Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable; and
(e) The structure complies with all applicable federal, state, and county laws.

The purpose of the proposal is to restore and enhance historic wetlands on a field that was historically ditched and drained for agriculture. Project elements include the construction of two deep-water ponds and expansion of a third, existing pond.
The Wetland Delineation Report discusses the methods used to identify, delineate, and classify the wetlands in the project vicinity. The entire project site has been determined to be wetland. The report identifies the wetland as a slope wetland with a Category III rating. The existing wetland is predominately used as hayfield has been seeded with tall fescue and is mowed one or more times per year.

The proposal will restore approximately 1.5 acres of wetland habitat including three ponds and 6,000 sq ft of suitable nesting habitat for western pond turtles. The proposal identifies three wetland areas for restoration actions. The project will create two new 14,500 sq ft and 34,000 sq ft ponds and reshape the existing pond to 12,225 sq ft. The proposal includes a grading plan for each of the new ponds and a phased timeline for the construction activities.

According to the application materials, the project will be constructed in accordance with local, state, and federal regulation that control activities in and near wetlands, including Army Corps of Engineers, WDFW, and Washington Department of Ecology. According to the application materials, WDFW will provide support on project timing so that construction activities are conducted in a manner that minimizes disturbance to western pond turtles.

A condition of approval requires disturbed areas to be revegetated with at least 80 percent vegetative coverage within one year. The applicant shall also monitor the new vegetation each spring to ensure at least 80 percent vegetative coverage for five consecutive years.

With conditions of approval regarding wetland restoration and monitoring, the proposed project is consistent with Commission Rule 350-81-560(5).

7. Commission Rule 350-81-560(7) describes Wetland Buffer Zones. It states:

   **Wetland Buffer Zones**
   
   (a) The width of wetlands buffer zones shall be based on the dominant vegetation community that exists in a buffer zone.
   
   (b) 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.
   
   (A) A forest vegetation community is characterized by trees with an average height equal to or greater than 20 feet, accompanied by a shrub layer; trees must form a canopy cover of at least 40 percent and shrubs must form a canopy cover of at least 40 percent. A forest community without a shrub component that forms a canopy cover of at least 40 percent shall be considered a shrub vegetation community.
   
   (B) A shrub vegetation community is characterized by shrubs and trees that are greater than 3 feet tall and form a canopy cover of at least 40 percent.
(C) A herbaceous vegetation community is characterized by the presence of herbs, including grass and grass-like plants, forbs, ferns, and nonwoody vines.

c Buffer zones shall be measured outward from a wetlands boundary on a horizontal scale that is perpendicular to the wetlands boundary. The following buffer zone widths shall be required:
(A) Forest communities: 75 feet
(B) Shrub communities: 100 feet
(C) Herbaceous communities: 150 feet
(d) Except as otherwise allowed, wetlands buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.

The Wetland Delineation Report was prepared using the methods outlined in the 1987 Corps of Engineers Wetlands Delineation Manual. The report included a site description and ecological history of the site. The existing wetland is managed agriculturally as a hayfield and has been seeded with tall fescue. The land has been used as a residence and hayfield for several decades. The wetland delineation report identifies the area as Oak/Conifer Foothills Forest community, ranging from 500 – 3,500 ft elevation, supporting Oregon white oak and ponderosa pine. Pursuant to this rule, the vegetation in this area is characteristic of the forest vegetation community and requires a buffer of 75 feet.

8. Commission Rule 350-81-560(8) describes Wetlands Compensation Plans. It states:

Wetland compensation plans shall be prepared when a project applicant is required to restore, create, or enhance wetlands. They shall satisfy the following guidelines:
(a) Wetlands compensation plans shall be prepared by a qualified professional hired by a project applicant. They shall provide for land acquisition, construction, maintenance, and monitoring of replacement wetlands.
(b) Wetlands compensation plans shall include an ecological assessment of the wetland that will be altered or destroyed and the wetland that will be restored, created, or enhanced. The assessment shall include information on flora, fauna, hydrology, and wetlands functions.
(c) Compensation plans shall also assess the suitability of the proposed site for establishing a replacement wetland, including a description of the water source and drainage patterns, topography, wildlife habitat opportunities, and value of the existing area to be converted.
(d) Plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals no greater than 1 foot, slope percentages, and final grade elevations; and other technical information shall be provided in sufficient detail to explain and illustrate:
(A) Soil and substrata conditions, grading, and erosion and sediment control needed for wetland construction and long-term survival.
(B) Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predation.

(C) Water-quality parameters, water source, water depths, water-control structures, and water-level maintenance practices needed to achieve the necessary hydrologic conditions.

(e) A 5-year monitoring, maintenance, and replacement program shall be included in all plans. At a minimum, a project applicant shall provide an annual report that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established, and photographs shall be used to monitor the replacement wetland.

(f) A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a wetlands compensation plan.

The proposal will restore approximately 1.5 acres of wetland habitat including three ponds and 6,000 sq ft of suitable nesting habitat for western pond turtles. As part of the required application materials, the applicant provided a wetland delineation report. The report included a site description and ecological history of the site. The land has been used as a residence and hayfield for several decades. The proposal identifies three wetland areas for restoration. The project will create two new ponds and reshape the existing pond. The proposal includes a grading plan for each of the new ponds and a phased timeline for the construction activities. To enhance wetland function and turtle habitat, the applicants propose to plant approximately 300 native trees and shrubs including ash, cottonwood, white oak, mock orange, ocean spray, wild rose, and snowberry. The plantings will improve vegetative structure, adding a scrub-shrub and forested area that will have at least three vegetative strata present. A condition of approval the applicant to monitor the new vegetation each spring to ensure at least 80 percent vegetative coverage for five consecutive years.

9. The subject parcel contains a highly complex hydrological system, containing several springs, natural and artificial ponds, seasonal wetlands, an intermittent stream, and an irrigation ditch. An irrigation ditch/intermittent stream runs from east to west, through the proposed project area. The water for the ditch originates at a natural spring located northwest of Mr. Slavens’ residence, near an existing pond. The project site was historically ditched and drained for agriculture and has been used as a hayfield for several decades. The entire project site has been determined to be a wetland, and within the wetland and its buffer, the ditch was delineated as a component of the surrounding wetland area. No groundwater shall be used to support wetland function. Therefore, the proposal is consistent with Commission Rule 350-81-570 that protects streams, ponds, lakes, and riparian areas.
10. Commission Rule 350-81-580 contains criteria for the review of potential impacts to sensitive wildlife. The Gorge Commission’s sensitive wildlife inventory shows the development site is located within Deer and Elk Winter Range and within 1000 feet of Balch Lake and Sondino Ponds, sensitive wildlife areas for Western Pond turtle and Lewis’ woodpecker. Commission Rule 350-81-580(1)(a)(A) defines sensitive wildlife areas to include these areas.

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

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

WDFW did not indicate any concerns with the proposed development as a wildlife site. Pursuant to Commission Rule 350-81-580(4)(c), staff does not believe the proposed development compromises the integrity of the parcel as a wildlife site due to the nature of the development, a wetland restoration project.

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

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

WDFW did not indicate any concerns with the proposed development. Staff believes the proposed development will improve existing western pond turtle and Lewis’ woodpecker habitat. Pursuant to Commission Rule 350-81-580(1)(c), staff does not believe the proposed development creates any adverse effects, including cumulative effects, to the integrity of the parcel as wildlife site due to the nature of the development.

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

CONCLUSION:

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

1. Commission Rule 350-81-086 states:

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

   The parcel is designated Recreation Class 3, according to the Gorge Commission’s
   Recreation Intensity Class map. No recreation sites or facilities exist on parcels next to the
   subject parcel; therefore, no buffers are needed per Commission Rule 350-81-086.

CONCLUSION:

The proposed development is consistent with Commission Rule 350-81-086 that protects
recreation resources in the National Scenic Area.

F. TREATY RIGHTS PROTECTION

1. Commission Rule 350-81-084(1) provides protection of tribal treaty rights from new
development in the National Scenic Area.

2. Commission Rule 350-81-084(1)(a) lists additional notice requirements for projects in or
providing access to the Columbia River or its fish bearing tributaries or for projects that
may affect tribal treaty rights and provides 20 days for tribal governments to submit
comments.

   The subject parcel has no access to the Columbia River, but pursuant to other noticing
requirements, notice of the proposal was mailed or emailed to the four Treaty Tribe
governments on March 22, 2022. The notice included a comment period of 21 days that
ended on April 12, 2022.

3. Commission Rule 350-81-084(1)(b) lists guidelines for tribal government consultation
when any of those governments submit substantive written comments.

   No substantive comments were received.

4. Commission Rule 350-81-084(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 parcel does not provide access to the Columbia River or its fish bearing tributaries. No known treaty rights are affected by this proposal and no treaty rights concerns were raised by tribal governments. Because the proposed use does not affect or modify treaty or other rights of any Indian tribe, the treaty rights protection process may conclude pursuant to Commission Rule 350-91-084(c)(B).

CONCLUSION:

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

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