

Director's Decision

Summary of Application

FILE NUMBER:	C23-0007
PROPOSAL:	The Columbia River Gorge Commission has received an application for the removal of a single-family dwelling.
APPLICANTS:	Michael & Luella Vorce
LANDOWNER:	Michael Vorce
SIZE and LOCATION:	The subject parcel is approximately 3 acres in size and located 130 Old Highway 8 and is described as Tax Lot Number 03-12-2733-0015/00 in Section 27, Township 3 North, Range 12 East, Willamette Meridian, Klickitat County, Washington.
LAND USE DESIGNATION:	General Management Area (GMA) – Residential (10)

Decision

Based upon the findings of fact and conclusions of law in the staff report accompanying this decision and the conditions of approval in this decision document, the land use application by Michael & Luella Vorce, for the removal of a single-family dwelling, is consistent with Commission Rules chapter 350, division 082, and thus consistent with the *Management Plan for the Columbia River Gorge National Scenic Area* and the standards of Section 6 and the purposes of the Columbia River Gorge National Scenic Area Act, Pub. L. 99-663, 100 Stat. 4274 (1986), and is hereby **APPROVED**.

Conditions of Approval

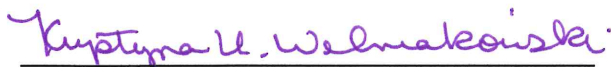
The following conditions of approval are given to ensure that the subject request is consistent with Commission Rules chapter 350, division 082. Compliance with these conditions of approval is required. The Gorge Commission may take one or more enforcement actions at any time to ensure compliance with these conditions of approval.

1. In accordance with Commission Rule 350-082-0150(3), the applicant shall record the Executive Director's decision and conditions of approval and approved site plan and elevation drawings in county deeds and records (at the Klickitat County Auditor's Office) to ensure notice of the conditions to successors in interest. The record shall be associated with all tax lots and parcels that constitute the subject property. The applicant need not record the separate staff report document containing the relevant

findings and conclusions. Once recorded, the applicants shall submit a copy of the recorded documents to the Executive Director.

2. This decision does not exempt the proposal from other non-National Scenic Area rules and regulations. It is the applicant's responsibility to ensure the use complies with all other applicable federal, state, and county laws and to obtain necessary approvals, including utility easement approvals.
3. A post-completion inspection is required. Please contact the Gorge Commission office when all construction is complete to schedule this inspection. The applicant may request interim inspections and Gorge Commission staff may at its discretion conduct interim inspections.
4. No grading or excavation is approved. 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. Prior to any future developments that would involve ground disturbing activities the project applicant is responsible for retaining the services of a cultural resource contractor to conduct additional investigations to evaluate the site and provide recommendations for Tribal and DAHP review. Additionally, the Department of Archaeology and Historic Preservation (DAHP) shall be consulted with regards to state laws requiring an excavation permit within archaeological site boundaries.
5. 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.
6. 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.

DATED THIS 29 day of August 2024 at White Salmon, Washington.



Krystyna U. Wolniakowski
Executive Director

Expiration of Approval

Commission Rule 350-082-0160 governs the expiration of this Director's Decision.

Expiration of this Director's Decision is automatic. The Executive Director does not notify applicants or landowners of decisions that are expired or may be close to expiring.

This decision of the Executive Director becomes void on the 29 day of August 2026 unless construction has commenced in accordance with Commission Rule 350-082-0160(4).

Commission Rule 350-082-0160(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. Commission Rule 350-082-0160(5) specifies that completion of the structure means completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the National Scenic Area approval.

Once the applicant has commenced construction of one element in this decision, the applicant must complete all elements in this decision in accordance with Commission Rule 350-082-0160. The Gorge 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 350-082-0160(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 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 28 day of September 2024.

The decision of the Executive Director is final unless the applicant or any other person who submitted comment files a Notice of Appeal with the Commission within thirty (30) days of the date of this decision. Commission Rule chapter 350, division 70 governs appeal of this decision. This rule is available on the Gorge Commission's website and at the Gorge Commission office. You may contact the Gorge Commission office if you have questions about appealing this decision.

Notes

1. 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.
2. 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.

In accordance with Commission Rule 350-082-0150(6), the Gorge Commission staff mailed notice of this decision to the following governments, agencies, and organizations and persons who provided comment on the application:

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

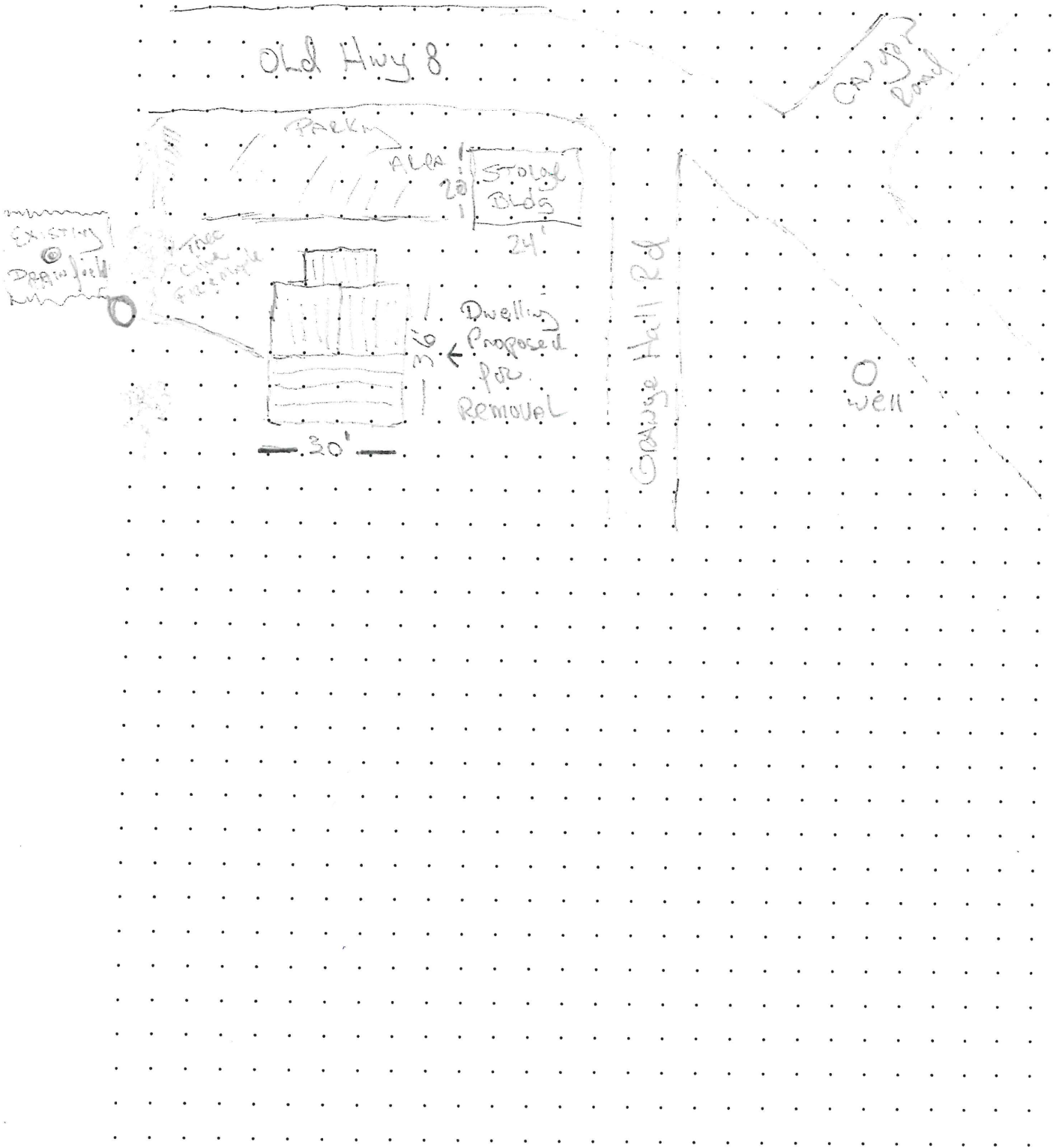
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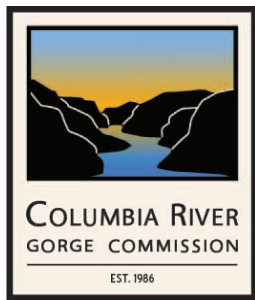
Staff Report for C23-0007
Approved site plans

APPROVED
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Site Plan

(Indicate scale: each grid equals 8 x 8 feet)





Development Review Staff Report

Summary of Application

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LANDOWNER:	Michael Vorce
SIZE and LOCATION:	The subject parcel is approximately 3 acres in size and located 130 Old Highway 8 and is described as Tax Lot Number 03-12-2733-0015/00 in Section 27, Township 3 North, Range 12 East, Willamette Meridian, Klickitat County, Washington.
LAND USE DESIGNATION:	General Management Area (GMA) – Residential (10)

Notice of Application Mailed to:

In accordance with Commission Rule 350-082-0110, the Gorge Commission staff mailed notice of this application to property owners within 200 feet of the subject parcel and sent email notice of this application to the following governments, agencies, and organizations:

Confederated Tribes and Bands of the Yakama Nation
Confederated Tribes of the Umatilla Indian Reservation
Confederated Tribes of Warm Springs
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 Received From:

Friends of the Columbia Gorge (Steve McCoy, Staff Attorney)
USFS CRGNSA (Chris Donnermeyer, Heritage Resource Program Manager)
Department of Archeology and Historic Preservation (James Macrae, Assistant State
Archaeologist & Sydney Hanson, Local Government Archaeologist)

Findings of Fact

A. Land Use

1. Michael & Luella Vorce are seeking approval to remove a dwelling. Klickitat County Assessor records show the subject structure was constructed in 1930. No grading or excavation is proposed except to remove the building.
2. The subject parcel is 3 acres in size and is in the General Management Area (GMA) and is designated Residential with a 10-acre minimum parcel size. The property is accessed off of Old Highway 8.
3. Commission Rule 350-082-0310 (3)(m) allows for the removal or demolition of structures that are fifty or more years old on lands designated Large-Scale Agriculture subject to compliance with resource protection guidelines.

The building is more than fifty years old. The removal of the dwelling is allowed per Commission Rule 350-082-0310 (3)(m), subject to consistency with guidelines for the protection of scenic, cultural, natural, and recreation resources.

Land Use Conclusion:

The proposed development is allowed review uses, subject to Commission Rules 350-082-0600 through 350-082-0720 that protect scenic, cultural, natural, and recreation resources.

B. SCENIC RESOURCES

1. Commission Rule 350-082-0600 lists scenic resource protection guidelines for review uses. The proposal does not include the construction of any new buildings, roads, fences, or other structures. The applicant proposes to clean up the ground beneath the building footprint, but no grading or excavation is proposed. Because no new development is proposed, the scenic resource protection guidelines in Commission Rule 350-082-0600 do not apply.

Scenic Resources Conclusion:

This application does not propose any new development. Scenic resource protection guidelines in Commission Rule 350-082-0600 are not applicable to the proposed dwelling removal. A condition of approval will ensure that no ground disturbance is allowed beyond the footprints of the buildings to be removed.

C. CULTURAL RESOURCES

1. Except as specified in Commission Rule 350-082-0620(2)(a)(C), new development in the NSA requires a reconnaissance survey.
2. Chris Donnermeyer, Heritage Resource Program Manager, U.S. Forest Service Columbia River Gorge National Scenic Area, reviewed the land use application and determined in a Cultural Resources Survey Determination letter, dated October 23, 2023, that pursuant to Commission Rule 350-082-0620(2)(a)(B) a Cultural Resource Reconnaissance Survey is required because would occur on a site that has been determined to be located within a high probability zone and occurs within 500 feet of a known archaeological site. In an updated survey determination, dated July 25, 2024, Mr. Donnermeyer determined that a Cultural Resource Reconnaissance Survey is not required because the applicants decided to remove the building without excavation equipment. Mr. Donnermeyer also submitted a cultural resource survey report.
3. Luciano Legnini, Forest Service Archaeologist, conducted reconnaissance surveys on February 22 and March 14th, 2024, consistent with Commission Rule 350-082-0620(2)(b)(A) and (B). Mr. Donnermeyer prepared a confidential report dated July 25, 2024, that was consistent with Commission Rule 350-082-0620(2)(b)(C) describing the requirements for reconnaissance surveys and reports for small-scale uses in the General Management Area.
4. Commission Rule 350-082-0620(2)(f) states:
 - (A) *The Executive Director shall submit a copy of all cultural resource survey reports to the State Historic Preservation Officer and the tribal governments. Survey reports may include measures to avoid affected cultural resources, such as a map that shows a reasonable buffer zone.*
 - (B) *The State Historic Preservation Officer and the tribal governments shall have 30 calendar days from the date a survey report is mailed to submit written comments to the Executive Director. The Executive Director shall record and address all written comments in the development review order.*

Notice of the cultural resource survey report was mailed to Washington DAHP and to tribal governments on August 7, 2024. Staff provided the survey report to the State Historic Preservation Office and the four Columbia River Treaty Tribes on August 7, 2024 with a 30-day comment period ending September 6, 2024.

5. Commission Rule 350-082-0620(2)(g)(B)(ii) states the cultural resource protection process may conclude when the following conditions exist:

A reconnaissance survey demonstrates that cultural resources do not exist in the project area, no substantiated concerns were voiced by interested persons within 30 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(f)(B) above.

The July 25, 2024, Vorce Development Review survey report concluded that the proposed development would have no effect on significant cultural resources. However, the report noted that for future development activities, the project applicant would be responsible for retaining the services of a cultural resource contractor to conduct additional investigations to evaluate the site and provide recommendations for Tribal and DAHP review. Additionally, the Department of Archaeology and Historic Preservation (DHAP) shall be consulted with regards to state laws requiring an excavation permit within archaeological site boundaries. These requirements have been included as conditions of approval. No substantiated concerns were voiced by interested persons, Washington DAHP, or tribal governments during the initial notice period that began on October 19, 2023, or the cultural survey notice period that began August 7, 2024.

6. Commission Rule 350-082-0620(2)(a)(D) describes when a historic survey is required. In his October 23, 2023, Cultural Resources Survey Determination letter, Mr. Donnermeyer determined that a historical survey is required because the proposed use would alter the exterior architectural appearance of significant buildings and structures that are 50 years old or older. In a Heritage Resource Inventory Report dated July 10, 2024, Luciano Legnini recommended that the dwelling is not eligible for the National Register.
7. Commission Rule 350-082-0620(2)(g)(B)(i) states the cultural resource protection process may conclude when the following conditions exist:

The proposed use does not require a reconnaissance or historic survey, no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within 30 calendar days of the date that a notice was mailed.

The project notice was mailed on October 19, 2023, and the comment period ended on November 9, 2023. No comments were received regarding cultural resource concerns. Pursuant to Commission Rule 350-082-540(2)(c)(B)(i), the cultural resource protection process for historic resources may conclude.

8. Commission Rule 350-082-0620(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.
9. Commission Rule 350-082-0620(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.

Cultural Resources Conclusion

With conditions protecting unknown cultural resources and human remains discovered during construction, the proposal is consistent with the guidelines in Commission Rule 350-082-0620 that protects cultural resources in the National Scenic Area.

D. NATURAL RESOURCES

1. Commission Rule 350-082-0640 provides guidelines for protecting water resources in the National Scenic Area. Commission staff reviewed its natural resource inventories for nearby water resources. The closest wetland is more than 1,000 feet away from the proposed development. Gorge Commission inventories identify an unknown stream near the project site. During a site visit on March 13, 2024, staff observed an irrigation ditch associated with Old Highway 8 where the stream was identified.
2. Commission Rule 350-082-0650 provides guidelines for protecting Priority Habitats and sensitive wildlife sites in the National Scenic Area. According to Gorge Commission resource inventories, the subject property is not located within 1,000 feet of sensitive wildlife areas or sites.
3. Commission Rule 350-082-0660 provides guidelines for protecting rare plants within the National Scenic Area. Commission staff reviewed its natural resource inventories for nearby rare plants. The closest rare plants are more than 1,000 feet away from the proposed development. Commission Rule 350-082-0660(5)(a) states that a 200-foot buffer zone shall be maintained around rare plants. The proposed development does not take place within a rare plant site or buffer zone.

Natural Resources Conclusion:

With the conditions of approval discussed above, the proposed development is consistent with the rules in Commission Rule 350-082, Sections 0640 through 0660, that protect natural resources in the National Scenic Area.

E. RECREATION RESOURCES

1. Commission Rule 350-082-0580(3) states:

Buffers from Existing Recreation Sites. 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 or structure and the parcel.

There are no established recreation sites on any adjacent properties. The proposed development will not detract from the use and enjoyment of any established recreation sites.

Recreation Resources Conclusion:

The proposed development is consistent with Commission Rule 350-082-0580(3) that protects recreation resources in the National Scenic Area.

F. TREATY RIGHTS PROTECTION

1. Commission Rule 350-082-0130 provides protection of tribal treaty rights from new development in the National Scenic Area. Consistent with Commission Rule 350-082-0130(1)(a), notice of the proposed development was provided to the tribal governments on October 19, 2023.
2. Commission Rule 350-082-0130(1)(b) 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. The subject parcel does not adjoin the Columbia River or its fish-bearing tributaries and does not provide access to the Columbia River.
3. Commission Rule 350-082-0130(1)(c) requires the Commission to offer to meet with or consult with the tribal governments prior to making a decision on the proposed development, and to make this offer more than once. The Commission provided the initial offer to meet or consult with the initial notice on October 19, 2023. The Commission provided a second offer to meet or consult on August 7, 2024. No treaty tribe requested a meeting or consultation.
4. Commission Rule 350-082-0130(d) provides 30 calendar days for tribal governments to request consultation regarding tribal treaty rights. No comments were received.
5. Commission Rule 350-082-0130(i) states:

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

The subject parcel does not provide access to the Columbia River or its fish bearing tributaries. No known treaty rights are affected by this proposal and no treaty rights concerns were raised by the tribal governments. Because the proposed use does not affect or modify treaty or other rights of any Indian tribe, the treaty rights protection process may conclude pursuant to Commission Rule 350-082-0130.

Treaty Rights Conclusion:

The proposed development is consistent with the guidelines in Commission Rule 350-082-0130, which provides protection for treaty rights and any other rights of any Indian tribe.

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