



**DECISION MEMO & CONSISTENCY DETERMINATION
BERTHOLD GATE & NATURALIZATION WORK CD-15-01-S
U.S. FOREST SERVICE
COLUMBIA RIVER GORGE NATIONAL SCENIC AREA
WASCO COUNTY, OREGON
AUGUST 24, 2015**

BACKGROUND

The proposed project includes two actions: (1) the construction of a dual locking-gate on an existing National Forest System (NFS) road on NFS land, and (2) the naturalization of a user-made two-track area with native plants also on NFS land. The purpose of the project is to prevent unauthorized vehicular access to the NFS parcel, and to allow the adjacent private landowner passage across NFS lands to access the south end of their property.

This combined Decision Memo and Consistency Determination documents my decision regarding this project.

DECISION

I have decided to authorize the construction of a gate and the naturalization of a short two-track area leading up to the road on which the gate will be placed. The project area is located in the eastern end of the Columbia River Gorge National Scenic Area in Township 2 North, Range 13 East, Section 7 on NFS property, tax lot 600. The NFS property is located just off of the Historic Columbia River Highway in the general Rowena area.

This action is categorically excluded from documentation in an environmental impact statement (EIS) or an environmental assessment (EA). The applicable category of actions is identified in agency procedures as “Repair and maintenance of roads, trails and landline boundaries,” 36 CFR 220.6(d)(4). This category of action is applicable because the project consists of maintaining a current NFS system road through the use of a dual-locking gate, and naturalizing the unauthorized two-track area in the vicinity of the new gate location.

I find that there are no extraordinary circumstances that would warrant further analysis and documentation in an EA or EIS. I took into account resource conditions identified in agency procedures that should be considered in determining whether extraordinary circumstances might exist:

- Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species – *Forest Service biologists have confirmed that there are no federally listed threatened or endangered species known to be in the project area or vicinity.*

- Flood plains, wetlands, or municipal watersheds – *No plains, wetlands or municipal watersheds are present in the project area.*
- Congressionally designated areas such as wilderness, wilderness study areas, or national recreation areas – *This project occurs within a Special Management Area of the Columbia River Gorge National Scenic Area. These proposed actions by the USDA Forest Service are required to be consistent with the purposes of the Columbia River Gorge National Scenic Area Act as determined by the Forest Service pursuant to Section 14(d) of the Columbia River Gorge National Scenic Area Act. A complete consistency review application was received by my office in July 2015. The project has been reviewed under the guidelines of the Columbia River Gorge National Scenic Area. That review is documented in the Findings of Fact (see below).*
- Inventoried roadless areas or potential wilderness areas – *No roadless areas are present in the project area or vicinity.*
- Research natural areas – *No research natural areas are present in the project area or vicinity.*
- American Indians and Alaska Native religious or cultural sites – *The Forest Service archeologist has confirmed that there are no areas or sites of significance to Native Americans within the project area or vicinity.*
- Archaeological sites, or historic properties or areas – *The Forest Service archeologist has confirmed that there are no archeological sites within the project area. The Historic Columbia River Highway is in the project's vicinity, but will not be impacted by the project.*

PUBLIC INVOLVEMENT

This action was made available for the public to review and comment. The proposed action was posted on the public website and known interested parties were notified by email. Three comments were received. See below in the *Findings of Fact: Public Comment* section for more information regarding those comments.

FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

I find that the above proposal is consistent with the Columbia River Gorge National Scenic Area (CRGNSA) Management Plan provided that it is implemented as described in the application materials, the CRGNSA Consistency Determination Findings of Fact (referenced as CD-15-01-S), and provided the following conditions are applied:

1. Should any historic or prehistoric cultural resources be uncovered during project activities, the applicant shall cease work and immediately notify the CRGNSA office and the Washington Office of Archeology and Historical Preservation. The applicant will also notify the Indian Tribal governments within 24 hours if the resources are prehistoric or otherwise associated with Native American Indians.

2. The gate will be a dark earth-brown color with a matte finish to ensure that the scenic standards from the Historic Columbia River Highway are maintained.
3. If traffic along the Historic Highway needs to be temporarily stopped, mitigations will include proper signage and safety warnings. Effort will be made to minimize all stops to the shortest amount of time, if they occur.

ADMINISTRATIVE REVIEW OPPORTUNITIES

A written request for review of the Consistency Determination, with reasons to support the request, must be received within 20 days of the date shown with the Area Manager signature below. Requests for review should be addressed to: Request for Review, Regional Forester, P.O. Box 3623, Portland, OR 97208.

IMPLEMENTATION DATE

This project may begin immediately provided that it meets the criteria and conditions listed in the Findings of Fact and Consistency Determination section below. This decision expires two years after the date on this determination. If implementation has not commenced before that date, a new consistency review or extension shall be required.

CONTACT

The Columbia River Gorge National Scenic Area staff prepared an analysis file in conjunction with this project. For further information, contact Nicole Carver at the Columbia River Gorge National Scenic Area, phone: (541)-308-1746, e-mail: nicolegcarver@fs.fed.us.



Lynn Burditt
Area Manager

9/3/2015

Date

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FINDINGS OF FACT

LANDOWNER:	USDA Forest Service
PROPOSED ACTION:	Gate Installation & Naturalization Work
LOCATION:	Township 2N, Range 13E, Section 7, Tax Lot 600 Tax lot ID: 14831
NATIONAL SCENIC AREA DESIGNATION:	Special Management Area
LAND USE DESIGNATION:	Agriculture
LANDSCAPE SETTING	Oak Woodland

FINDINGS OF FACT:

The following findings of fact contain the applicable standards and guidelines from the CRGNSA Management Plan. The Management Plan, as adopted in 2004 and updated in 2011, is in effect. The CRGNSA Management Plan standards and guidelines are displayed in regular type. The findings are displayed under headers in **bold type**.

A. PUBLIC COMMENT

A notice describing the project was sent to a mailing list of known interested parties and adjacent landowners on July 28, 2015. A period of 10 days was allowed for public comment. Three comments were received during the comment period. They are summarized below.

- Friends of the Columbia Gorge commented on the project’s consistency with the Management Plan, specifically in terms of the area’s existing uses, and its land use designation. Additionally, they commented on the project’s potential to impact scenic resources including key viewing areas and landscape settings, natural resources including water, sensitive wildlife and plants and soil productivity, cultural resources and recreation resources.

The project is being conducted in accordance with the Management Plan standards and guidelines, which have been addressed below in the Findings of Fact section of this document. Those findings include considerations of the area’s existing uses, scenic, natural, cultural and recreational resource standards and guidelines. Overall, it has been determined that the project is in line with all standards and guidelines in the Management Plan.

- Wayne Stewart, a member of the Historic Columbia River Highway Advisory Committee commented that the gate should be painted a dark brown color.

The gate will be a dark brown earth-toned color to ensure that it is not visually evident as seen from the Historic Columbia River Highway.

- An adjacent landowner commented in general support of the project.

B. PROJECT PROPOSAL

The proposal includes the construction of a dual-locking gate (Power River Gate type, as per Forest Service specifications) on a Forest Service road on NFS land located in the Rowena area, off of the Historic Columbia River Highway. A private party had previously installed an unauthorized, cable-style gate across this road. That gate has been removed. This project entails construction of a gate meeting Forest Service specifications, and the naturalization of a short, user-made two-track area.

C. EXPEDITED DEVELOPMENT REVIEW

The Management Plan, Part II, Chapter 7 (General Policies and Guidelines), Expedited Development Review Process, states:

1. The following developments may be reviewed using the expedited development review process, provided they comply with the resource protection and procedural guidelines listed below.

G. Road closure gates.

Findings: The proposed gate construction is an activity that may be reviewed for the expedited review guidelines and process as it involves the construction of a road closure gate.

D. RESOURCE AND TREATY RIGHTS PROTECTION GUIDELINES

1. Proposed developments reviewed using the expedited review process shall comply with the following resource protection guidelines:

A. Scenic

(2) Except signs, the colors of structure topographically visible from key viewing areas shall be dark earth-tones found at the specific site or the surrounding landscape. The specific colors or list of acceptable colors shall be included as the condition of approval. This guideline shall not apply to additions, which may match the color of existing buildings.

(3) Except signs, structures topographically visible from key viewing areas shall use low or non-reflective building materials, including roofing, gutters, vents, and chimneys.

(6) Structures within ½-mile of a key viewing area and topographically visible from the key viewing area shall be sited, screened and/or designed to achieve the applicable scenic standard (e.g. visual subordination, not visually evident).

Findings: The proposed gate is within 40 feet of the Historic Columbia River Highway and within ½ mile of the Columbia River, both of which are Key Viewing Areas (KVA). To avoid

visual and scenic interference, the proposed gate will be painted a dark brown earth-tone color with a matte finish so as to be non-reflective to oncoming traffic along the historic highway, and placed in a location that is screened from the highway by existing trees and vegetation. Thus the gate will be Not Visually Evident as seen from both Key Viewing Areas.

B. Cultural

(1) The expedited development review process shall only be used to review proposed development that does not require a reconnaissance survey or historic survey. The GMA Cultural Resources Policies 6 and 7 (Part I, Chapter 2) shall be used to determine if a reconnaissance and/or historic survey is required for a proposed development.

(2) The GMA “Cultural Resources Discovered After Construction Begins” Guideline 1 and “Discovery if Human Remains” Guideline 1 (Part I, Chapter 2) shall be applied as conditions of approval for all development approved under the expedited development review process.

Findings: The proposed project has been reviewed by Forest Service archaeologist Marge Dryden. The project does not require a reconnaissance or historic survey.

C. Recreation

(1) The development shall not detract from the use and enjoyment of established recreation sites on adjacent parcels.

Findings: The gate will not detract from the use and enjoyment of this parcel of NFS land. The road to be gated is under shared jurisdiction with a neighboring private landowner, who previously gated the road from public access. The gate will not detract from current use patterns. Any temporary impacts to the recreational users of the Historic Columbia River Highway during the construction of the gate will be insignificant, and will be minimized and mitigated as necessary. Although it is not anticipated to occur, if traffic along the Historic Highway needs to be temporarily stopped, mitigations will include proper signage and safety warnings. Effort will be made to minimize all stops to the shortest amount of time, if they occur.

D. Natural

(1) Wetlands, Streams, Rivers, Ponds, and Lakes

(a) The development is outside buffer zones for wetlands, streams, rivers, ponds, and lakes. This guideline shall not apply to lot line adjustments or development located inside road, utility or railroad rights-of-way or easements that have been previously disturbed and regularly maintained.

Findings: The proposed project is outside the buffer zone of wetlands, streams, rivers, ponds, and lakes.

(2) Sensitive Wildlife and Sensitive Plants

(a) The development meets one of the following:

- (i) The development is at least 1,000 feet from known sensitive wildlife areas or sites (excluding sensitive aquatic species, deer winter range, and turkey habitat) and known sensitive plants; or
- (ii) The development does not disturb the ground or is inside road, utility or railroad rights-of-way or easements or other areas that have been previously disturbed and regularly maintained; or
- (iii) For sensitive wildlife, the development is within 1,000 feet of known sensitive wildlife areas or sites (excluding sensitive aquatic species, deer winter range and turkey habitat), but an appropriate federal or state wildlife agency determines (1) the sensitive wildlife area or site is not active or (2) the proposed development would not compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance.

For sensitive plants, the development is within 1,000 feet of known sensitive plants, but the Oregon or Washington Natural Heritage Program or a person with recognized expertise in botany or plant ecology hired by the applicant has determined that the development would be at least 200 feet from the sensitive plants.

(b) Development eligible for expedited review shall be exempt from the field surveys for sensitive wildlife or sensitive plants [see GMA “Site Plans and Field Surveys for Review Uses Near Sensitive Wildlife Areas and Sites” Guidelines 1 and 2, and “Site Plans and Field Surveys for Review Uses Near Sensitive Plants” Guidelines 1 and 2 (Part I, Chapter 3)].

Findings: The proposed action has been reviewed by Forest Service biologists. The project work is minor, of short duration and scope, and thus it has been determined that the project will not negatively impact any wildlife or fish species, or their habitats. No field surveys are required. The proposal will have no effect to sensitive species or habitat.

2. Proposed developments reviewed using the expedited review process shall comply with the following treaty rights protection guidelines:

A. Proposed developments shall not affect or modify any treaty or other rights of any Indian tribe.

B. The expedited development review process shall cease and the proposed development shall be reviewed using the full development review process if an Indian tribe submits substantive written comments during the comment period that identify the treaty rights that exist in the project vicinity and explain how they would be affected or modified by the proposed development.

C. Except as provided in 2.B above, the GMA and SMA treaty rights and consultation goals, policies and guidelines in Chapter 3, Section IV of the Management Plan shall not apply to proposed developments reviewed under the expedited review process.

Findings: The proposed project has been reviewed by Forest Service archaeologist Marge Dryden and tribes were notified of the proposed development. No comments were received.

E. CONCLUSION

The proposed gate construction and two-track naturalization work on NFS land in the Rowena area off of the Historic Columbia River Highway is consistent with the National Scenic Area Management Plan Policy and Guidelines provided it meets the criteria and conditions listed in the Findings of Fact and Consistency Determination.