

ANNOTATED MINUTES

Tuesday, February 17, 2004 - 9:30 AM
Multnomah Building, Sixth Floor Commissioners Conference Room 635
501 SE Hawthorne Boulevard, Portland

EXECUTIVE SESSION

Chair Diane Linn convened the meeting at 9:34 a.m., with Commissioners Lisa Naito, Lonnie Roberts and Maria Rojo de Steffey present, and Vice-Chair Serena Cruz excused.

- E-1 The Multnomah County Board of Commissioners Will Meet in Executive Session Pursuant to ORS 192.660(1)(h). Only Representatives of the News Media and Designated Staff are allowed to Attend. Representatives of the News Media and All Other Attendees are Specifically Directed Not to Disclose Information that is the Subject of the Executive Session. No Final Decision will be made in the Executive Session. Presented by Agnes Sowle.

EXECUTIVE SESSION HELD.

There being no further business, the meeting was adjourned at 9:50 a.m.

Tuesday, February 17, 2004 - 10:00 AM
Multnomah Building, First Floor Commissioners Boardroom 100
501 SE Hawthorne Boulevard, Portland

BOARD BRIEFINGS

Chair Diane Linn convened the meeting at 10:04 a.m., with Commissioners Lonnie Roberts and Maria Rojo de Steffey present, Vice-Chair Serena Cruz excused, and Commissioner Lisa Naito arriving at 10:06 a.m.

- B-1 Gorge Commission Presentation of Draft Revised Management Plan for the Columbia River Gorge National Scenic Area. Presented by Derrick Tokos, Martha Bennett, and Anne Squier.

***ANNE SQUIER, MARTHA BENNETT, VIRGINIA
KELLY AND DERRICK TOKOS PRESENTATIONS***

AND RESPONSE TO BOARD QUESTIONS AND DISCUSSION.

B-2 Work Session, Understanding Options for the Wapato Correctional Facility for Fiscal Year 2004-2005. Presented by Sheriff Bernie Giusto, Christine Kirk, Lt. Heidenrich, and Invited Others.

BERNIE GIUSTO, CHRISTINE KIRK, LARRY AAB, JAY HEIDENRICH, TIM MOORE, DON SMITH AND STEVE LIDAY PRESENTATIONS AND RESPONSE TO BOARD QUESTIONS AND DISCUSSION ON ISSUES INCLUDING: LAND USE PERMIT; WARRANTY OPERATIONAL SEQUENCING PERIOD; CONSTRUCTION COSTS; PUBLIC SAFETY BOND; ALCOHOL AND DRUG TREATMENT BEDS; TRANSITIONAL HOUSING; SB 1145 FUNDS; DETENTION DORMS AND PROGRAM DETENTION; FIXED RATE SCENARIO; TRANSPORT LOOPS; MCSO ADVISORY BOARD PRESENTATION; NEIGHBORHOOD ASSOCIATION AND FRIENDS OF SMITH AND BYBEE LAKES; GOOD NEIGHBOR AGREEMENT; AND SHERIFF GIUSTO'S PROPOSAL TO HOUSE DEPARTMENT OF CORRECTIONS INMATES FROM MULTNOMAH COUNTY WITHIN THE MULTNOMAH COUNTY WAPATO FACILITY FOR THE LAST YEAR OF THEIR INCARCERATION, TO PROVIDE ADDITIONAL OPERATIONAL REVENUE AND A BETTER TRANSITION PERIOD FOR THE INMATES. MR. LIDAY PRESENTED MULTNOMAH COUNTY DEPARTMENT OF COUNTY COMMUNITY JUSTICE FEEDBACK IN SUPPORT OF THE PROPOSAL, ADVISING IT PROVIDES SOUND PAROLE AND PROBATION PRACTICES. FOLLOWING DISCUSSION, BOARD CONSENSUS THAT SHERIFF GIUSTO DRAFT LETTER OF SUPPORT TO THE GOVERNOR FOR BOARD SIGNATURE.

There being no further business, the meeting was adjourned at 11:46 a.m.

Thursday, February 19, 2004 - 9:30 AM
Multnomah Building, First Floor Commissioners Boardroom 100
501 SE Hawthorne Boulevard, Portland

REGULAR MEETING - CANCELLED

(Lack of agenda items)

BOARD CLERK FOR MULTNOMAH COUNTY, OREGON

Deborah L. Bogstad



Multnomah County Oregon

Board of Commissioners & Agenda

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BOARD OF COMMISSIONERS

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FEBRUARY 17, 2004 BOARD MEETINGS

FASTLOOK AGENDA ITEMS OF INTEREST

Pg 2	9:30 a.m. Tuesday Executive Session
Pg 2	10:00 a.m. Tuesday Gorge Commission Presentation of Draft Revised Management Plan for the Columbia River Gorge National Scenic Area
Pg 2	10:20 a.m. Tuesday Work Session, Understanding Options for the Wapato Correctional Facility for Fiscal Year 2004-05
The Thursday, February 19, 2004 Board meeting is cancelled for lack of an agenda	

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Tuesday, February 17, 2004 - 9:30 AM
Multnomah Building, Sixth Floor Commissioners Conference Room 635
501 SE Hawthorne Boulevard, Portland

EXECUTIVE SESSION

- E-1 The Multnomah County Board of Commissioners Will Meet in Executive Session Pursuant to ORS 192.660(1)(h). Only Representatives of the News Media and Designated Staff are allowed to Attend. Representatives of the News Media and All Other Attendees are Specifically Directed Not to Disclose Information that is the Subject of the Executive Session. No Final Decision will be made in the Executive Session. Presented by Agnes Sowle. 30 MINUTES REQUESTED.
-

Tuesday, February 17, 2004 - 10:00 AM
Multnomah Building, First Floor Commissioners Boardroom 100
501 SE Hawthorne Boulevard, Portland

BOARD BRIEFINGS

- B-1 Gorge Commission Presentation of Draft Revised Management Plan for the Columbia River Gorge National Scenic Area. Presented by Derrick Tokos, Martha Bennett, and Anne Squier. 20 MINUTES REQUESTED.
- B-2 Work Session, Understanding Options for the Wapato Correctional Facility for Fiscal Year 2004-2005. Presented by Sheriff Bernie Giusto, Christine Kirk, Lt. Heidenrich and Invited Others. 90 MINUTES REQUESTED.
-

Thursday, February 19, 2004 - 9:30 AM
Multnomah Building, First Floor Commissioners Boardroom 100
501 SE Hawthorne Boulevard, Portland

REGULAR MEETING - CANCELLED

(Lack of agenda items)



COMMISSIONER SERENA CRUZ, DISTRICT 2
MULTNOMAH COUNTY OREGON

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MEMORANDUM

TO: Chair Diane Linn
Commissioner Maria Rojo de Steffey
Commissioner Lisa Naito
Commissioner Lonnie Roberts
Clerk of the Board Deb Bogstad

FROM: Melissa Ibarra
Staff to Commissioner Serena Cruz

DATE: February 13, 2004

RE: Board Briefing Absence

Commissioner Cruz will not be able to attend the Executive Session and Board Briefing on February 17, 2004. She will be out of town attending a funeral.



AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: February 17, 2004

Agenda Item #: B-1

Est. Start Time: 10:00 AM

Date Submitted: 02/11/04

Requested Date: February 17, 2004

Time Requested: 20 minutes

Department: Non-Departmental

Division: Bob Paine

Contact/s: Derrick Tokos, Karen Schilling

Phone: 503-988-3043

Ext.: 22682

I/O Address: 455/116

Presenters: Derrick Tokos, Martha Bennett, and Anne Squier

Agenda Title: Gorge Commission Presentation of draft Revised Management Plan for the Columbia River Gorge National Scenic Area

NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide clearly written title.

1. What action are you requesting from the Board? What is the department/agency recommendation?

This request is to allow the Gorge Commission to present their draft Management Plan to the Board of Commissioners and give our Board an opportunity to ask questions and provide feedback. While the Board will have an opportunity to make a statement or take formal action following the presentation we are not asking that they do so, and have advised the Gorge Commission to not expect as much at this meeting.

2. Please provide sufficient background information for the Board and the public to understand this issue.

Multnomah County is one of six counties in Oregon and Washington that are within the Columbia River Gorge National Scenic Area. Portions of the County that are within this area are subject to policies and guidelines of the Management Plan for the National Scenic Area. These policies regulate land uses to ensure that development does not compromise the scenic, natural, cultural, and recreational resources of the gorge.

As part of the National Scenic Area Act, Congress directed the Gorge Commission to conduct a comprehensive review of the Management Plan at least once every 10 years,

to determine if it needs to be revised. The Commission started their first 10 year review in the spring of 2001, and has held public workshops and formed subcommittees to evaluate the plan and prepare recommendations for revisions to the document based upon feedback that they obtained from the Forest Service, Indian Tribes, gorge counties and the general public. This initial draft of the Revised Management Plan, which the Gorge Commission released for public comment on January 26, 2004, is the product of this planning effort.

3. Explain the fiscal impact (current year and ongoing).

No fiscal impact is expected.

NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

If a budget modification, explain:

- ❖ **What revenue is being changed and why?**
- ❖ **What budgets are increased/decreased?**
- ❖ **What do the changes accomplish?**
- ❖ **Do any personnel actions result from this budget modification? Explain.**

- ❖ **Is the revenue one-time-only in nature?**
- ❖ **If a grant, what period does the grant cover?**
- ❖ **When the grant expires, what are funding plans?**

NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)

If a contingency request, explain:

- ❖ **Why was the expenditure not included in the annual budget process?**
- ❖ **What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?**
- ❖ **Why are no other department/agency fund sources available?**
- ❖ **Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.**
- ❖ **Has this request been made before? When? What was the outcome?**

If grant application/notice of intent, explain:

- ❖ **Who is the granting agency?**
- ❖ **Specify grant requirements and goals.**
- ❖ **Explain grant funding detail – is this a one time only or long term commitment?**
- ❖ **What are the estimated filing timelines?**
- ❖ **If a grant, what period does the grant cover?**
- ❖ **When the grant expires, what are funding plans?**
- ❖ **How will the county indirect and departmental overhead costs be covered?**

4. Explain any legal and/or policy issues involved.

The revised Management Plan for the Columbia River Gorge incorporates policy direction given by the Commission at a series of public meetings held since the spring of 2001 and, when adopted, will conclude the process for comprehensive review of the Plan that the National Scenic Area Act requires occur at least once every 10 years. While we summarize a number of the key policy themes and policies in our letter dated February 10, 2004 (attached), a complete copy of the revised Plan can be viewed on the Gorge Commission web site, located at <http://www.gorgecommission.org/>.

In announcing the release of the revised plan the Executive Director of the Gorge Commission, Martha Bennett, and the Scenic Area Manager for the U.S. Forest Service, Dan Harkenrider, issued a joint letter summarizing the content of the document, outlining a schedule for its adoption, and providing direction for those interested in providing comment. A copy of this letter is attached. Within the National Scenic Area, the Gorge Commission is responsible for lands that have been designated General Management Areas and Forest Service for properties within Special Management Areas. To assist the public in reviewing the Plan, staffs from these agencies have prepared memorandums summarizing changes to each of these parts of the Management Plan. Copies of the memos are also enclosed.

Once the revised Management Plan goes into effect, the Gorge Commission process is concluded. The National Scenic Area Act then gives the counties 60 days from the effective date of the Plan to inform the Commission as to whether or not they will implement the ordinance or give that responsibility to the Gorge Commission. Counties that choose to implement the revised Management Plan will effectively have the balance of the year to adopt their implementing ordinances and forward them to the Commission and Forest Service for concurrence.

5. Explain any citizen and/or other government participation that has or will take place.

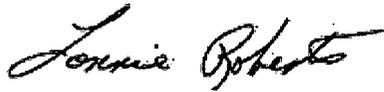
The Gorge Commission and Forest Service approached each of the six counties in the National Scenic Area, the Tribes, and general public seeking feedback on issues that they would like to see addressed as part of Plan Review. To facilitate public input, Commission staff held open houses in each county. The open house in Multnomah County was held at the Corbett Grade School, in October of 2001.

Taking the information they had collected, the Commission's staff organized and consolidated issues into categories for land use, and scenic, cultural, and natural resources. The Gorge Commission then held a number of public meetings in which they pared down the list of topics that they would consider as part of Plan Review and formed sub-committees to evaluate the Plan and prepare recommendations for revisions to the document. The sub-committees met every two to four weeks through the better part of 2002 and early 2003. Their recommendations were presented by Gorge Commission and Forest Service staff to the full Commission for policy direction. This happened incrementally at public meetings over the last year or so, resulting in this initial draft of the Revised Management Plan.

The Gorge Commission will be taking testimony on the Revised Management Plan at a public hearing on February 24, 2004 in The Dalles. They will also accept written comments prior to March 10, 2004. After the close of the comment period, the Commission will revise the plan as appropriate, and re-issue the document as a final

draft in early April. They have tentatively scheduled a hearing on the final draft for April 27, 2004.

Required Signatures:



Department/Agency Director: _____

Date: 02/11/04

Budget Analyst

By: _____

Date:

Dept/Countywide HR

By: _____

Date:



Department of Business and Community Services
MULTNOMAH COUNTY OREGON

Land Use and Transportation Program
1600 SE 190th Avenue
Portland, Oregon 97233-5910
PH. (503) 988-3043 Fax (503) 988-3389
www.co.multnomah.or.us/dbcs/LUT/land_use

To: Multnomah County Board of Commissioners

From: Derrick I. Tokos, AICP, Principal Planner *DT*

Date: February 10, 2004

**RE: Gorge Commission's Release of Draft Revised Management Plan for the
Columbia River Gorge National Scenic Area**

On January 26, 2004 the Columbia River Gorge Commission released for public comment a draft copy of a revised Management Plan for the Columbia River Gorge National Scenic Area. This document incorporates policy direction given by the Commission at a series of public meetings held since the spring of 2001 and, when adopted, will conclude the process for comprehensive review of the Plan that the National Scenic Area Act requires occur at least once every 10 years. A copy of the revised Plan is available on the Gorge Commission web site, located at <http://www.gorgecommission.org/>.

In announcing the release of the revised plan the Executive Director of the Gorge Commission, Martha Bennett, and the Scenic Area Manager for the U.S. Forest Service, Dan Harkenrider, issued a joint letter summarizing the content of the document, outlining a schedule for its adoption, and providing direction for those interested in providing comment. A copy of this letter is attached. Within the National Scenic Area, the Gorge Commission is responsible for lands that have been designated General Management Areas and Forest Service for properties within Special Management Areas. To assist the public in reviewing the Plan, staffs from these agencies have prepared memorandums summarizing changes to each of these parts of the Management Plan. Copies of the memos are enclosed.

Background

At the beginning of 2001 the Gorge Commission and Forest Service approached each of the six counties in the National Scenic Area, the Tribes, and general public seeking feedback on issues that they would like to see addressed as part of Plan Review. To facilitate public input, Commission staff held open houses in each county. The open house in Multnomah County was held at the Corbett Grade School, in October of 2001.

Taking the information they had collected, the Commission's staff organized and consolidated issues into categories for land use, and scenic, cultural, and natural resources. The Gorge Commission then held a number of public meetings in which they pared down the list of topics that they would consider as part of Plan Review and formed sub-committees to evaluate the Plan and prepare recommendations for revisions to the document. The sub-committees met every two to four weeks through the better part of 2002 and early 2003. Their recommendations were presented by Gorge Commission and

Forest Service staff to the full Commission for policy direction. This happened incrementally at public meetings held over the last year or so, resulting in this initial Draft of the Revised Management Plan that was recently released for public comment.

Key Policy Themes in Management Plan

From the onset of Plan Review, Multnomah County Land Use and Transportation staff have participated in the Gorge Commission's process by reviewing materials prepared by their staff, attending public meetings, and providing both oral and written testimony on "technical" planning issues. In doing so, we observed three significant themes that evolved out of the Plan Review process.

1. The Gorge Commission stuck with the existing structure of the Management Plan, affirming its basic policies and guidelines as effectively protecting scenic, natural, cultural, and recreational resources within the National Scenic Area. This allowed them to focus their energy in Plan Review on correcting specific language that through experience or feedback they understood to be overly onerous, ambiguous, redundant or otherwise ineffective. For example, the Commission retained the concept of Key Viewing Areas (KVAs) as a way of identifying features within the Scenic Area, the views from which warrant specific scenic protection and kept "visual subordination" as the primary standard for safeguarding these resources. The Commission, however, eliminated the requirement that new development "minimize visibility" as viewed from KVAs because it at times forced development to be totally screened when visual subordination only requires that it not noticeably contrast with the landscape as viewed from a Key Viewing Area.
2. The Gorge Commission deferred a substantial amount of the detailed work in implementing scenic guidelines for color, reflectivity, and landscaping to a "Scenic Resource Implementation Handbook" to be developed by the Commission and Forest Service prior to the end of 2005. These guidelines apply to new development visible from Key Viewing Areas and are the types of requirements that landowners and planners struggle with, as it is sometimes difficult to determine the right blend of design, construction, and landscaping techniques necessary to achieve visual subordination. In their press release, the Commission's staff accurately represents the concept of this Handbook as a "safe harbor" specifying colors, textures and design elements that landowners and planners can rely upon as meeting Management Plan guidelines for scenic protection. It is a critical in making the Plan easier to implement for all involved. An example of where this detailed work was deferred to a future Handbook is the scenic guideline requiring the exterior of buildings seen from KVAs be composed of non-reflective or low-reflective materials, with a pre-approved list of acceptable materials to be included in the Handbook.
3. The Gorge Commission truncated their list of Plan Review topics as a result of budget constraints, meaning a number of issues that warrant attention will not be addressed. In the spring of 2003 the Commission elected to "triage" the range of plan review topics that they had planned to consider as a result of budget cuts from the states of Oregon and Washington. Examples include how to effectively respond to cumulative impacts of development on scenic and natural resources; alternative standards to "visual subordination" in the General Management Area where development occurs on the KVA (such as within a highway prism); appropriateness of the existing farm plan requirement versus a State of Oregon style farm income test approach to qualifying a dwelling on farm land; and an allowance for additional uses for structures that are on the National Register of Historic Places to facilitate their preservation. Several of the "triaged" items were identified by County staff as meriting consideration as part Plan Review. The Gorge Commission has indicated that they may pick-up some of the issues within the next two years, as resources are available.

County Issues

Multnomah County staff provided a preliminary list of issues to the Gorge Commission in February of 2001 and supplemented that list with written and oral testimony throughout the Plan Review process. We focused our efforts on elements of the existing Plan that are ambiguous, redundant or otherwise difficult to implement and worked with the Commission and their staff to make the Management Plan as user friendly as possible. While there are issues we raised that were not considered by the Gorge Commission, or were addressed in a manner in which we do not entirely agree, on balance this revised Management Plan improves upon the existing body of work and can be successfully implemented. We conclude this in part, because the Management Plan allows counties to adopt codes that vary from the policies and guidelines as long as they provide greater resource protection. This gives the County some ability to clarify elements of the Plan through adoption of an implementing ordinance. A summary of significant issues that we raised as part of Plan Review or that may be of particular interest to Multnomah County residents are as follows:

- Key Viewing Area Maps: Maps provided by the Gorge Commission when the existing Management Plan was adopted more than a decade ago are very general, identifying most of the properties within the County as visible from Key Viewing Areas but providing no guidance as to the specific KVAs a landowner should focus on in preparing and application. Further, the Management Plan does not define a threshold for visibility (i.e. screened by vegetation, topographically visible, etc.) This is a major point of frustration for applicants seeking to develop their property and was a concern that we raised as part of Plan Review. The Gorge Commission addressed this problem. They clarified that it is properties that are topographically visible from a KVA that are subject to review and Forest Service staff has mapped each of the Key Viewing Areas and identified properties from which they are visible.
- Geologic Hazards: Early in the Plan Review process we asked the Gorge Commission to consider adding a geologic element to the Management Plan to address such issues as landslides, steep slopes, and geologic events, particularly considering that geologic features are the first item listed in the Plan's table of resources to be inventoried and that there may not even be Scenic Area if it were not for the unique geologic features of the region. The Commission chose not to include this as a topic for consideration as part of Plan Review. Multnomah County land use ordinances presently regulate earthwork on steep slopes, including those in the Scenic Area, and the County may be able to establish such regulations as expressly authorized under the Management Plan by adopting an implementing ordinance utilizing the alternative language clause discussed above.
- Expedited Review: We raised this as an issue, seeking a clear streamlined process for the review and approval of small scale development such as minor additions to structures, fences, lighting, etc. The Commission addressed this issue by developing an expedited review process, and determining a range of uses that qualify for such review. While the Commission did a thorough job of defining a break point between uses eligible for expedited review and those that are not, the process they have created for expedited review, including comment and appeal periods, may not appreciably reduce review timelines.
- Size Restriction for Accessory Structures: This was not an issue raised by staff; however, it is one of the few areas where the Commission noticeably tightened land use regulations. The proposed language restricts the combined footprint for all accessory structures to 1,500 square feet in residential zones, and 2,500 square feet in agricultural and forest zones where the properties are larger than 10 acres in size. This does not include agricultural buildings. The Multnomah County land use ordinance does not presently contain a restriction of this nature.

- **Existing Uses or Structures:** Existing uses or structures are those that were lawfully established and predate the Management Plan. The requirements for altering such uses, or replacing them in the event of a disaster are ambiguous and confusing. This is an issue that we raised in Plan Review and; for the most part, the Commission has addressed our concerns. The nature and extent of the landscaping required for replacement of a dwelling due to disaster is still not clear; however, the Commission staff is working to clarify the issue.
- **Minimize Visibility:** While this was not an issue that we raised, it will impact how land owners approach scenic standards in preparing a permit application. The Gorge Commission eliminated the existing standard requiring development “minimize visibility” from KVAs, reasoning that it went beyond what is necessary to achieve visual subordination, at times requiring development be entirely concealed. The Commission replaced the standard with a new guideline emphasizing and prioritizing different techniques used to achieve visual subordination, such as siting, design, height, shape, color, reflectivity, and landscaping.
- **Historic Structures:** We asked the Commission to consider allowing additional uses for structures on the National Register of Historic Places because the range of allowed uses for some properties are very limited and could prevent the preservation of structures. The Commission did not take action on this issue.
- **SMA/GMA Terminology:** There are discrepancies between GMA and SMA portions of the Management Plan in the use of terms such as “building” and “accessory structure,” causing confusion. This is an issue that we had identified as a problem and the Commission addressed it as part of Plan Review.
- **Small Scale Fish Processing/Support Facilities:** – The Gorge Commission added this as an allowed use within certain General Management Area (GMA) land use designations when the activity is in conjunction with a family-based commercial fishing business. Such uses are presently considered industrial and restricted to urban areas.
- **Dwellings on SMA Residential Land:** The Management Plan appears to be inconsistent with the Scenic Area Act, with the Plan allowing new dwellings on SMA residential lands and the Act prohibiting them on smaller lots. The issue is specific to Latourell Falls in Multnomah County and Rowena Dell in Wasco County. While we raised the issue, the Forest Service, which is responsible for the SMA portion of the Plan, did not take it up.
- **Cultural Resources:** We had asked the Commission to streamline the steps involved in the cultural review process as it is process intensive and time consuming. While the Commission chose not to make changes to this process, Forest Service staff and the Tribes put together probability maps for cultural resources that might speed up their review for projects on low impact sites.
- **Natural Resources:** The Forest Service responsibility for reviewing SMA natural resource applications is unclear and causes confusion in the processing of applications. We raised this as an issue, and Forest Service staff made a concerted effort to correct the problem. We had also sought updated inventories for Sensitive Wildlife and Rare Plants, to assist in our work with the public. While the Forest Service and Gorge Commission have indicated that they are working on the issue, we are not certain as to how far they have progressed.

Next Steps

We are presently reviewing the draft Management Plan in preparation for the Gorge Commission's February 24, 2004 hearing in The Dalles. The County will have an opportunity to present testimony directly to the Gorge Commission at this hearing, or submit written comment prior to March 10, 2004. After the close of the comment period, the Commission will revise the plan as appropriate, and re-issue the document as a final draft in early April. They have tentatively scheduled a hearing on the final draft for April 27, 2004. Once the Management Plan is adopted, the Secretary of Agriculture has 90 days within which to concur, meaning that the Plan could go into effect between May and August of this year.

Once the revised Management Plan goes into effect, the Gorge Commission process is concluded. The Scenic Area Act gives counties 60 days from the effective date of the Plan to inform the Commission as to whether or not they will implement the ordinance or give that responsibility to the Gorge Commission. Counties that choose to implement the revised Management Plan will effectively have the balance of the year to adopt their implementing ordinances and forward them to the Commission and Forest Service for concurrence.



TO: Columbia River Gorge Tribal Nations
Columbia River Gorge Counties
Oregon and Washington State Agencies
Interested Persons

FROM: Martha Bennett, Executive Director, Columbia River Gorge Commission
Dan Harkenrider, Area Manager, Columbia River Gorge National Scenic Area

SUBJECT: Transmittal of Draft Revised Management Plan for the Columbia River Gorge National Scenic Area

Date: January 26, 2004

Transmittal of Draft Revised Management Plan

Enclosed is a copy of the Draft Revised Management Plan for the Columbia River Gorge National Scenic Area. This document is the result of the first review of the Management Plan as required by the Columbia River Gorge National Scenic Area Act, which began in spring 2001. Under the Scenic Area Act, the Gorge Commission prepares the Management Plan for the General Management Area (GMA), while the USDA Forest Service is responsible for developing Special Management Area (SMA) provisions. Along with the Draft Revised Management Plan, we are sending a summary memo from the Columbia River Gorge Commission that outlines changes in the GMA and a summary memo from the USDA Forest Service that outlines changes in the SMA. These memos are indexed to the Draft Revised Management Plan, and we hope they will be helpful in your review. The Forest Service memo does not cover topics that were previously considered by the Area Manager.

Content of Draft Revised Management Plan

The Draft Revised Management Plan contains language to implement the preliminary policy direction developed by the Columbia River Gorge Commission and the Area Manager on a wide range of topics during Plan Review. The preliminary direction of the Commission and Area Manager occurred after significant technical work and public input on these topics.

In developing the Plan, both USDA Forest Service and Gorge Commission staff worked to ensure consistency throughout the draft document. In some cases, compiling the draft document illustrated potential inconsistencies or problems, and staff is recommending different language in those cases. Those issues are identified in the summary memos from both agencies, and we particularly invite public comment on those issues.

Schedule for Adoption

The following is the schedule for public review and adoption of the Draft Revised Management Plan:

January 26, 2004	Public Comment Period on Draft Revised Management Plan begins
February 2, 2004	Columbia River Gorge Commission and USDA Forest Service begin to meet with Columbia River Gorge Tribal Nations and Columbia River Gorge County Governments
February 24, 2004	Columbia River Gorge Commission and Area Manager hold Public Hearings on Draft Revised Management Plan
March 10, 2004	Public Comment Period Ends
April 9 2004	Columbia River Gorge Commission and USDA Forest Service issue Final Revised Management Plan
April 27, 2004	Columbia River Gorge Commission and Scenic Area Manager hold public hearing, deliberation and adoption of Final Revised Management Plan
May 7, 2004	Columbia River Gorge Commission submits adopted Revised Management Plan to the United States Secretary of Agriculture for concurrence

After the decision by the Secretary of Agriculture, the Columbia River Gorge Commission and USDA Forest Service will begin work with County governments on adoption of revised land use ordinances to implement the Revised Management Plan.

Public Comment

Public comment may be submitted to the Columbia River Gorge Commission office in White Salmon, or the Forest Service, Columbia River Gorge National Scenic Area office in Hood River. Comments may be mailed, faxed, emailed or hand-delivered. Interested persons are invited to testify at the public hearings on February 24, 2004 and on April 27, 2004. Preliminary draft agendas for the February 24, 2004 public hearings are included for your information.

To submit comments to the Columbia River Gorge Commission, you may e-mail them to the Commission at crgc@gorge.net, or mail them to P.O. Box 730, White Salmon, WA 98672. To submit comments to the Forest Service, you may e-mail them to comments-pacificnorthwest-columbia-river-gorge-nsa@fs.fed.us, or mail them to 902 Wasco Avenue, Suite 200, Hood River, OR 97031.

The Draft Revised Management Plan and summary memos are available on the Columbia River Gorge Commission website at www.gorgecommission.org. Hard copies are available at local libraries (Goldendale, White Salmon, Stevenson, Washougal, Troutdale, Hood River, The Dalles, Gresham, Fairview, Portland, and Vancouver), and at the Gorge Commission office in White Salmon and the Forest Service office in Hood River. A copy of these documents can be obtained from Columbia River Gorge Commission offices; additional copies after the first copy are available for a charge of \$ 6 plus postage. The documents are also available on CD ROM, with additional copies after the first copy available for \$ 5 plus postage.

Please contact Brian Litt of Columbia River Gorge Commission staff at (509) 493-3323 x 223 or Virginia Kelly of USDA Forest Service staff at (541) 308-1720 with questions about these documents or the adoption process.

SUMMARY OF REVISIONS FOR GENERAL MANAGEMENT AREA
DRAFT REVISED MANAGEMENT PLAN FOR THE COLUMBIA RIVER GORGE
NATIONAL SCENIC AREA

Columbia River Gorge Commission
January 26, 2004

Introduction

This document summarizes revisions to General Management Area provisions in the Draft Revised Management Plan. They are listed by topic area, followed by a summary of the revision and where in the Draft Revised Management Plan the change can be found.

The Draft Revised Management Plan contains language to implement preliminary policy direction developed by the Columbia River Gorge Commission and the Scenic Area Manager during Plan Review. This preliminary direction occurred after significant technical work and public input on these topics.

In some cases, compiling the draft plan illustrated inconsistencies or oversights, and staff is recommending different language to resolve these problems. These proposed revisions are highlighted with bold phrasing indicating that staff made changes to the language.

Some of these recommendations address aspects of a topic that have not been discussed in detail by the Commission during Plan Review. Thus, these recommendations have not been integrated into the Revised Management Plan, pending public comment and deliberation by the Gorge Commission. The new language is included in this Summary report, highlighted by the phrase "staff recommend adding the following guideline..." in bold print. We particularly invite public comment on these issues, since in some cases, we have not received public comment on this proposed language before.

Part I, Chapter 1: Scenic Resources

Disposal sites for spoils materials: See summary for "disposal sites for spoil materials" under "Part II, Land Use Designations" on page 4 this document.

Mining reclamation plan guidelines: Eliminates requirement for mining applications to have prior state reclamation plan approval; adds new guideline requiring coordination with state agencies regarding state and Scenic Area mine reclamation requirements (Guidelines 6 and 7 in "Overall Scenic Provisions"). [Pages I-2 to I-4]

Scenic Resources Implementation Handbook: Adds a policy to develop a *Scenic Resources Implementation Handbook* to provide specific guidance for applicants and planners regarding guidelines for acceptable colors, landscaping and reflectivity of building materials on sites visible from key viewing areas (Policy 10 in "Key Viewing Areas"). [Pages I-5 to I-6]

Application of key viewing area guidelines: Clarifies that “Key Viewing Area” guidelines apply to development on sites topographically visible from key viewing areas (Guideline 1, “Key Viewing Areas”). [Page I-6]

Permanence and effectiveness: Requires that permanence and effectiveness of siting and design elements be considered to ensure developments meet visual subordination (Guideline 2, “Key Viewing Areas”). [Page I-6]

Siting guidelines: Eliminates requirement regarding siting to minimize visibility; adds new direction to site development to achieve visual subordination. Also clarifies the priority of existing topography and vegetation when screening is needed to meet visual subordination (Guidelines 5 and 6, “Key Viewing Areas”). [Pages I-6 to I-7]

Landscaping: Revised approach for use of new landscaping to meet visual subordination, including: 1) that new landscaping is relied on only if other means are not sufficient to meet the scenic standard; 2) requirements to analyze existing vegetative screening when requiring new landscaping; 3) timing requirements regarding installation of plantings and when they must achieve scenic standards; and 4) a cross-reference to the *Scenic Resources Implementation Handbook* regarding sizes and species of vegetation to be used (Guideline 9, “Key Viewing Areas”). [Pages I-7 to I-8]

Screening vegetation and fuel break requirements: Requires any screening vegetation on lands designated GMA Forest to meet scenic guidelines and fuel break requirements for fire protection (Guideline 10, “Key Viewing Areas”). [Page I-8]

Colors: Provides one color standard for structures visible from key viewing areas, based on dark earth-tone colors found in the background of the building site, and cross-references specific acceptable color palette to be included in the *Scenic Resources Implementation Handbook*. Replaces prior color guidelines in “Landscape Settings” section (Guideline 11, “Key Viewing Areas”). [Page I-8]

Reflectivity: Cross-references lists of pre-approved exterior materials and other specific direction regarding reflectivity of building surfaces to be included in the *Scenic Resources Implementation Handbook* (Guideline 12, “Key Viewing Areas”). [Page I-8]

Scenic Highway Corridor Strategies: Policies to develop and implement scenic highway corridor strategies for Washington SR 14 and Interstate 84 (Policies 1 and 2, “Scenic Travel Corridors”). [Pages I-23 to I-24]

Signs: Reorganizes GMA Sign guidelines to be easier to use, and to integrate with new “Uses Allowed Outright” and “Expedited Review” provisions in Part II, Chapter 7. **Staff revised a guideline for the list of signs allowed without review (now in Part II, Chapter 7, under “Uses Allowed Outright”, previously GMA Sign Guideline 3).** The previous requirement that these signs allowed without review must be consistent with the provisions of GMA Sign Guideline 1 is deleted. These types of signs (including small signs placed flat on buildings, and temporary “for sale” and election signs) have, by their nature, minimal scenic impacts. This is the rationale behind the Management Plan’s exempting them from review. Requiring them to

conform to substantive standards in Guideline 1 is impractical, and contrary to the concept of allowing them to occur without review (Guidelines 1-6, "Signs"). [Pages I-27 to I-29]

Part I, Chapter 2: Cultural Resources

There are no revisions proposed to this chapter, and it is not included in the Draft Revised Management Plan.

Part I, Chapter 3: Natural Resources

Revised reference to manual for delineating wetlands: The reference to the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands* (Federal Interagency Committee for Wetland Delineation, 1989) has been replaced with reference to the *1987 Corps of Engineers Wetland Delineation Manual* (On-line Edition), and any subsequent amendments (Policy 4 and Guideline 2 of "Rules for Delineating Wetlands Boundaries", "Wetlands"). [Pages I-44 and I-51]

New guideline regarding uses with minor effects in wetland buffers: Allows uses with "minor" effects in the outer 50 percent of wetlands buffer zone subject to specified approval criteria. "Minor" effects are defined as a maximum disturbed area of 1,500 square feet on slopes of less than 10 %, with less than 10 cubic yards of grading and not affecting any trees or shrubs (Guideline 2 of "Review Uses", "Wetlands"). [Pages I-46 to I-47]

New guideline regarding uses with minor effects in riparian buffers: Allows uses with "minor" effects in the outer 50 percent of riparian buffer zones subject to specified approval criteria. "Minor" effects are defined as a maximum disturbed area of 1,500 square feet on slopes of less than 10 %, with less than 10 cubic yards of grading and not affecting any trees or shrubs (Guideline 2 of "Review Uses", "Streams, Ponds, Lakes and Riparian Areas"). [Page I-56]

Updated reference to manual for timing of in-water work: The reference to the Oregon Guidelines for *Timing of In-water Work to Protect Fish and Wildlife Resources*, is revised to reflect the updated edition published in 2000 (Guideline 1.C(1) of "Approval Criteria for Other Review Uses in Aquatic and Riparian Areas", "Streams, Ponds, Lakes and Riparian Areas"). [Page I-58]

Exemption from wildlife and plant field survey requirements for some projects: Exempts utility and communications projects occurring inside previously disturbed corridors, or existing developed utility sites, and that are maintained annually, from field survey requirements for sensitive wildlife or plants (Guideline 2 of "Site Plans and Field Surveys for Review Uses Near Sensitive Wildlife Areas and Sites", "Wildlife Habitat"; and Guideline 2 of "Site Plans and Field Surveys for Review Uses Near Rare Plants", "Rare Plants"). [Pages I-64 and I-71]

State-approved mitigation measures for minor effects to sensitive wildlife areas or sites: Allows state wildlife biologists to specify mitigation measures, in addition to site plan modifications or regulating the timing of new uses, to eliminate minor effects of development (Guideline 5 of "Approval Criteria for Review Uses Near Sensitive Wildlife Areas and Sites", "Wildlife Habitat"). [Page I-65]

Part I, Chapter 4: Recreation Resources

There are no revisions proposed to this chapter, and it is not included in the Draft Revised Management Plan.

Part II, Chapters 1 through 7: Land Use Designations

Additions: Added "additions to existing buildings" as review uses, except in Open Space ("Uses Allowed through the Expedited Development Review Process" and "Review Uses"). [This revision appears in Chapters 1, 2 and 4 through 6; for example see Guideline 1.V on page II-10 and Guideline 1.B on page II-117.]

Resource enhancement projects: Added "resource enhancement projects" as review uses ("Review Uses"). [This revision appears in Chapters 1 through 6; for example see Guideline 1.M on page II-8] Added standards for resource enhancement projects, including quarry enhancement projects ("Resource Enhancement Projects" in Chapter 7). [Pages II-148 to II-149]

Review uses, inconsistencies: Added "signs" and "removal/demolition of structures" as uses allowed in all land use designations. [These revisions appear in Chapters 1 through 6; for example see Guideline 1.L on page II-112 and Guideline 1.E on page II-116 for signs allowed outright, Guideline 1.G on page II-117 for signs eligible for expedited review, and Guideline 1.X on page II-10 for removal/demolition of structures.] Added "docks and boathouses" as review uses, except Open Space. [This revision appears in Chapters 1, 2 and 4 through 6; for example see Guideline 1.W on page II-10.] Added "land divisions" as review uses in Commercial Forest, Large Woodland, and Small Woodland (Guideline 1.X, "Review Uses"). [Page II-29]

Applying new less-stringent regulations to development approved under prior scenic area regulations: Added guidelines that allow landowners to submit an application to alter conditions of approval for development approved and built under prior Scenic Area regulations ("Applying New Less-Stringent Regulations to Development Approved Under Prior Scenic Area Regulations" in Chapter 7). [Pages II-107 to II-108]

Accessory buildings and structures: Added guidelines that clarify the size and number of accessory buildings allowed on a parcel ("Review Uses"). [This revision appears in Chapters 1, 2 and 4 through 6; for example see Guidelines 1.E and 1.F on page II-6 and Guidelines 1.C and 1.D on pages II-70 and II-71.]

Agricultural buildings and structures: Added guidelines that distinguish agricultural structures from agricultural buildings ("Review Uses"). [This revision appears in Chapters 1, 2 and 4 through 6; for example see Guidelines 1.C and 1.D on page II-6.] Added standards for agricultural buildings ("Agricultural Buildings" in Chapter 7). [Page II-142]

Vested rights, existing uses and discontinued uses: Revised existing provisions and added new provisions to clarify what is meant by an existing use, discontinued use, and vested right ("Standards for Applications, Expiration of Approvals, Vested Rights" and "Existing Uses and Discontinued Uses" in Chapter 7). [Pages II-100 to II-102 and II-102 to II-107, respectively]

Disposal sites for spoil materials: Added disposal sites for spoil materials from public road maintenance activities as review uses on lands designated agriculture or forest (Guideline 2.P and Guideline 2.N, "Review Uses"). [Pages II-12 and II-31, respectively] Added application requirements and siting and scenic resource standards for disposal sites ("Disposal Sites for Spoil Materials from Public Road Maintenance Activities" in Chapter 7). [Page II-149 to II-150]

A scenic resources policy states, "Except for production and/or development of mineral resources, nothing in the key viewing areas or landscape settings guidelines in this chapter shall be used as grounds to deny proposed uses . . ." (Policy 2, "Overall Scenic Provisions" in Part II, Chapter 1, "Scenic Resources"). The first clause of this policy was revised to include disposal sites for spoil materials from public road maintenance activities. [Page I-1]

The Commission directed staff to draft two provisions regarding disposal sites. First, the Commission decided applicants (e.g., state transportation department or county public works department) must demonstrate it is not practicable to locate the disposal site outside the Scenic Area or inside an Urban Area. **Staff added a guideline to carry out this requirement (Guideline 2 in "Disposal Sites for Spoil Materials from Public Road Maintenance Activities" in Chapter 7). [Page II-149]** Second, the Commission decided agencies administering a Scenic Area ordinance (i.e., county, Forest Service, or Gorge Commission) shall determine whether spoil materials deposited as a result of an emergency/disaster response shall be (1) removed from the Scenic Area, (2) deposited at a site in the Scenic Area approved as a spoil materials disposal site, or (3) recontoured to emulate the surrounding landscape. **Staff added a guideline that makes this requirement clear (Guideline 4.A(6)(b) in "Emergency Disaster Response Actions"). [Page II-128]**

In regards to the second issue in the previous paragraph, the Commission did not specify what standard an agency administering a Scenic Area ordinance should use when determining the ultimate treatment of spoil materials deposited as a result of an emergency/disaster. Without a standard, agency decisions may be unpredictable and vulnerable to appeal. **Staff recommend adding the following guideline to Guideline 4.A(6) [page II-128] as a basis for selecting one of the three actions:**

The agency shall select the action that, to the greatest extent practicable, best complies with the policies and guidelines in the Management Plan that protect scenic, cultural, recreation and natural resources.

Wine sales/tasting rooms: Added wine sales/tasting rooms as a review use in Residential (Guideline 2.J in "Review Uses" in Chapter 4, "Residential Land"). [Page II-67] Also added standards for wine sales/tasting rooms (Guidelines 2.J(1) and 2.J(2) in "Review Uses"). [Page II-67]

Small-scale fishing support and fish processing operations: Added small-scale fishing support and fish processing operations as a review use in Residential, Small Woodland, and Small-Scale Agriculture ("Review Uses"). [Pages II-12, II-31 and II-67] Also added standards for such operations ("Small-Scale Fishing Support and Fish Processing Operations" in Chapter 7). [Pages II-146 to II-148]

Replacement structures: Revised existing provisions and added new provisions to clarify the standards for replacement structures (Guidelines 2 and 3 in "Existing and Discontinued Uses" Chapter 7). [Pages II-103 to II-106]

The Commission directed staff to add several provisions to the preliminary draft provisions for replacement structures. They decided replacement structures for structures destroyed by disaster may be slightly larger than original structures. **Staff added a guideline to allow this flexibility (Guideline 3.C in "Existing and Discontinued Uses" in Chapter 7). [Page II-104]**

Based on a motion by Commissioner Loerke, the Commission decided a replacement structure for a structure destroyed by disaster may be located in a different location when the original building site is no longer suitable for construction. **Staff added a guideline to allow this exception (Guideline 3.B in "Existing and Discontinued Uses" in Chapter 7). [Pages II-103 to II-104]** It was unclear if the new building site must comply with any of the provisions that protect treaty rights and scenic, cultural and natural resources. Staff and Commissioner Loehrke discussed this issue. He said he assumed sensitive resources would be protected. **Staff added guidelines to protect treaty rights and scenic, cultural and natural resources (Guidelines 3.B(2) and (3) in "Existing and Discontinued Uses" in Chapter 7). [Page II-104]**

The Commission decided to limit the amount of new vegetation required to screen a replacement structure for a structure destroyed by disaster. **Staff added guidelines to carry out this decision (Guideline 3.D(3) in "Existing and Discontinued Uses" in Chapter 7). [Pages II-104 to II-105]** In doing so, staff discovered two issues. First, the Commission decided the percent of the replacement structure screened by vegetation shall not exceed the percent of the original structure that was screened by vegetation (Guideline 3.D(3)(a) in "Existing and Discontinued Uses" in Chapter 7). [Page II-104] **Staff recommend adding the following guideline to help avoid misinterpretations in situations where the original structure was constructed under a Scenic Area decision that included conditions of approval preserving existing landscaping and/or requiring new landscaping:**

If the original structure was approved under the Final Interim Guidelines, the Management Plan, or a Scenic Area land use ordinance, the replacement structure shall comply with any conditions of approval that required a landowner/land manager to preserve existing vegetation or plant and maintain new vegetation to screen the original structure as seen from key viewing areas.

Second, the draft revised scenic resources guidelines allow applicants five years to achieve the visual subordination standard. The Commission decided this time frame should not apply to replacement structures for structures destroyed by disaster (Guideline 3.D(3)(d) in "Existing and Discontinued Uses" in Chapter 7). [Page II-105] This exception creates a problem; without a time frame, reviewing agencies could not require applicants to plant more than seedlings. For instance, assume 50 percent of an original house was screened by trees. Without a time frame, the applicant would only need to plant two 3-inch seedlings because the seedlings would eventually (75 or 100 years) grow into mature trees that screen 50 percent of the house. Staff believe the Commission intended to provide reasonable landscaping requirements in situations where structures are destroyed by disaster. **Staff recommend adding the following change to Guideline 3.D(3)(d) that provides a 10-year time frame:**

The time frame for achieving visual subordination ~~in the scenic resources guidelines~~ shall ~~not apply~~ be 10 years.

Using a 10-year time frame and average growth rates for trees, planners and landscape architects could determine how tall new trees would need to be in order to screen a specified percent of a replacement structure in 10 years.

Lot line adjustments: Added a new definition of "lot line adjustment" to the Glossary and new policies and guidelines for such actions ("Lot Line Adjustments" in Chapter 7). [Pages II-139 to II-141] Added lot line adjustments as review uses Space ("Uses Allowed through the Expedited Development Review Process" and "Review Uses"). [This revision appears in Chapters 1 through 6; for example see Guideline 1.U on page II-10 and Guideline 1.J on pages II-117 to II-118.]

In the process of adding these provisions, staff realized that the provisions tentatively approved by the Commission did not address land use designations without minimum parcel sizes, which include Open Space, Public Recreation, Commercial Recreation, and Commercial. **To address this oversight, staff added guidelines for lot line adjustments in these designations (Guidelines 2, 3, and 4 in "Lot Line Adjustments" in Chapter 7 and Guideline 1.J in "Development Eligible for Expedited Review" in "Expedited Development Review Process" in Chapter 7). [Pages II-140 to II-141 and II-117 to II-118, respectively]**

Uses allowed outright: Revised, expanded, and consolidated the lists of uses allowed outright ("Uses Allowed Outright" in Chapter 7). [Pages II-108 to II-116]

Expedited development review process: Added provisions that allow specific uses and developments to be reviewed using an expedited development review process ("Expedited Development Review Process" in Chapter 7). [Pages II-117 to II-122]

In October 2003, the Commission discussed the procedures and time frame for submitting comments on applications processed under the expedited development review process. Based on a motion by Commissioner Squier, the Commission decided interested parties should have at least 10 calendar days to mail written comments (Guideline 2.A in "Procedural Guidelines" in "Expedited Development Review Process" in Chapter 7). [Page II-122] Several county planners expressed concern about this procedure. They said letters may take a week or more to arrive in their offices, thereby extending the time needed to issue decisions. Staff and Commissioner Squier recognize this concern.

Staff recommend the following two changes to address this concern. First, replace the word "mail" with "submit" in Guideline 2.A:

Reviewing agencies shall allow interested parties at least 10 calendar days from the date a notice is mailed and/or posted to ~~mail~~ submit written comments on the proposed development.

Second, add the following definition of "submit" to the Glossary:

Submit: To deliver a document (e.g., land use application, written comment) to a reviewing agency's office by personal delivery, commercial delivery, mail, fax, or E-mail. When a document must be submitted within a specified period, it must arrive at the reviewing agency's office by the close of business on the last day of the specified period.

In a separate but related issue, Commissioner Squier said she believes interested parties should have at least 12 days to submit comments. We invite public comment on this issue.

In reviewing procedural guidelines, staff recognized that the expedited development review process did not include notice requirements. **To address this omission, staff added guidelines that require reviewing agencies to send a notice of all proposed developments to be reviewed under the expedited review process to: (1) tribal governments, (2) appropriate state agencies, (3) Gorge Commission, (4) Forest Service, and (5) landowners with 200 feet (Guidelines 1.A and B in "Procedural Guidelines" in "Expedited Development Review Process" in Chapter 7). [Page II-122]**

In reviewing the resource protection guidelines, staff realized that the provisions tentatively approved by the Commission did not address Indian treaty rights. The Scenic Area Act prohibits development that would affect treaty rights. **Staff added guidelines that require reviewing agencies to address treaty rights (Guidelines 2.A, B., and C in "Resources and Treaty Rights Protection Guidelines" in "Expedited Development Review Process" in Chapter 7). [Pages II-121 to II-122]**

Open Space: As noted above, the Commission added new provisions for "Uses Allowed Outright" and "Expedited Development Review Process" (Chapter 7). While adding these provisions to the chapter on Open Space (Chapter 3, "Land Use Designations"), staff realized that the existing headings and some guidelines do not clearly distinguish between development allowed outright and development subject to review. **Staff added subheadings and guidelines to this chapter to avoid confusion (e.g., "Uses Allowed Outright," "Uses Allowed through the Expedited Development Review Process," and "Review Uses"). [Pages II-51 to II-55]**

Glossary

Additions: Added a definition of "addition." [Page 1]

Accessory buildings and structures: Changed the definition of "accessory building" to "accessory structure/building." [Page 1]

Buildings and structures: Clarified the definition of "building" in the Glossary. Used the term "buildings" when a provision only affects "buildings." Used the term "structures" when a provision refers to "structures." (The term "structure" includes all buildings). [Page 3]

Existing use and structure: Updated the definition of "existing use or structure." [Page 8]

Outdated/undeveloped subdivisions: Revised the definition of "parcel" to clarify the status of outdated/undeveloped subdivisions. [Page 14]

Previously disturbed and regularly maintained: The new provisions for "Uses Allowed Outright" and "Expedited Development Review Process" (Part II, Chapter 7) use the terms "previously disturbed" and "regularly maintained." Staff prepared and discussed definitions of these terms at several Commission meetings (September 9 and October 14, 2003). However, no action was taken to add these definitions to the Glossary. Without definitions, county planners will interpret these terms. This may result in inconsistent decisions and appeals.

Staff recommend adding the following definitions of "previously disturbed" and "regularly maintained" to the Glossary:

Previously disturbed: An area of land where the natural surface has been graded, excavated, filled, paved and/or graveled.

Regularly maintained: An area of land that has been previously disturbed and where periodic actions have been taken to (1) keep the area clear of vegetation (e.g., shoulders, utility yards), (2) limit the height and type of vegetation (e.g., utility rights-of-way), and/or (3) establish and retain non-native vegetation (e.g., landscaped medians, rest area grounds).

Repair and maintenance: Added separate definitions of "repair" and "maintenance." [Pages 12 and 17]

SUMMARY OF REVISIONS FOR SPECIAL MANAGEMENT AREA
DRAFT REVISED MANAGEMENT PLAN FOR THE COLUMBIA RIVER GORGE
NATIONAL SCENIC AREA

January 26, 2004

Introduction

The draft Revised Management Plan incorporates changes to the Special Management Area (SMA) sections adopted by Area Manager Dan Harkenrider throughout the joint Forest Service/Gorge Commission "General Land Use" track; SMA Agricultural Land, Scenic Resources and Natural Resources revisions adopted in July 2003; and SMA General Land Use and Natural Resources revisions adopted in January 2004.

This memo notes additional changes to the Management Plan that were not disclosed in the process outlined in paragraph one. In particular, this memo documents changes to the SMA forest practice guidelines, and new guidelines for clearing trees for new agricultural use. These new guidelines are included in the SMA Forest Chapter (Part II, Chapter 2: Forest Land). This memo also documents organizational changes and minor revisions to address current Plan inconsistencies.

Changes to the Management Plan are depicted as follows: new text is underlined, deleted text is shown in ~~striketrough~~, and unchanged text is shown in normal font. Only the changes to the Management Plan are under consideration for public comment, for adoption by the Gorge Commission, and for concurrence by the Secretary of Agriculture. Unchanged portions of the Management Plan will remain as currently worded. Some chapters have no changes (e.g. Part I, Chapter 2: Cultural Resources), and therefore are not included in the draft Revised Management Plan.

Part I: Resource Protection and Enhancement

Part I, Chapter 1: Scenic Resources

- This chapter contains the changes approved by Area Manager Dan Harkenrider in July 2003. SMA and GMA Scenic Resource guidelines are now largely consistent with one another.
- SMA scenic resource guidelines for forest practices were revised and moved to the SMA Forest Chapter (Part II, Chapter 2: Forest Land).

Part I, Chapter 2: Cultural Resources

- There are no changes to the Cultural Resources chapter, and this chapter is not included in the draft Revised Management Plan.

Part I, Chapter 3: Natural Resources

- The SMA Natural Resource Protection Guidelines were completely re-written. Many of the SMA guidelines were unclear, particularly concerning the review process. Procedural changes, clarifications and more detailed direction to implement SMA guidelines have been included. The SMA review process is now more consistent with the GMA review process. These revisions did not lessen protection for natural resources (with the exception of the revised wetland policy adopted in July 2003), while reorganizing the chapter, changing review processes and adding clarification.
- New language is included for the SMA wetland policy adopted July 22, 2003, which allows impacts to wetlands in cases of public safety and resource restoration and enhancement.
- SMA natural resource guidelines for forest practices were revised and moved to the SMA Forest Chapter (Part II, Chapter 2: Forest Land). New definitions for “old growth” and “remnant old forest” are discussed in the SMA Forest chapter.

Part I, Chapter 4: Recreation Resources

- One policy and two guidelines were moved to the SMA Recreation Resources chapter from the SMA Transportation section of Part II, Chapter 7. These modifications were considered an organizational change.

Part II: Land Use Designations

Part II, Chapter 1: Agricultural Land

- Review Use Guideline 1(A) concerning new agricultural uses was modified from the July 2003 decision in order 1) to apply to all new cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas, and 2) to apply scenic and recreational guidelines as well as natural and cultural guidelines. This guideline is also included in the Forest and Residential Land Use Designations. (This guideline is incorporated by reference into the Public Recreation LUD, which allows all agricultural review uses.)
- Guideline 1(T) was modified to make the language of this chapter consistent with the SMA Forest chapter, and add the commercial recreation provision of Part II, Chapter 6, Recreation Designations.

Part II, Chapter 2: Forest Land

In addition to the changes adopted by Area Manager Dan Harkenrider throughout the joint Forest Service/Gorge Commission “General Land Use” track, this chapter includes changed forest practices provisions and new provisions for clearing trees for new agricultural use. These new forest provisions were released for public review and comment on October 31, 2003. The draft October 31, 2003 forest provisions have been modified in response to public comments and included in this chapter of the draft Revised Management Plan. A summary of the changes to the October 31, 2003 proposals is as follows:

- 1) Limit created openings in the West Conifer vegetation type to one acre on National Forest lands, and on all lands designated Open Space.

Rationale: Most of the National Forest lands in the West Conifer vegetation type are designated Late Successional Reserve (LSR) by the Northwest Forest Plan. The objective of LSR is to promote old growth forests. Given the CRGNSA mission, management direction and the scarcity of old growth conifer forest, the Forest Service will manage National Forest lands (non-LSR as well as LSR lands) in the West Conifer area to promote development of old growth habitat. Because the West Conifer area is currently largely composed of closed canopy younger forest, forest practices would be limited to tree thinning to promote old growth habitat.

In the Open Space areas in the West Conifer vegetation type, openings will occur naturally due to slides and other natural factors, although the amount and frequency cannot be predicted.

- 2) Change the percent of openings for the "Visually Subordinate" standard from 16% to 8% at one time. Leave the percent of openings for the "Not Visually Evident" standard at 4%.

Rationale: The cumulative effects percentage of disturbance at one time for created forest openings were originally based on the *Siskiyou Study* and National Forest Land and Management Planning. In the Mt. Hood NF Land and Resource Management Plan the standards were set at:

- Not Visually Evident (Retention): 4% per decade and 8% at one time
- Visually Subordinate (Partial Retention): 8% per decade and 16% at one time

The current CRGNSA Management Plan 16% limit for both the "Not Visually Evident" and the "Visually Subordinate" scenic standards do not match Forest Service visual resource studies. Using the higher percentages for the range did not adequately reflect the visual sensitivity of the landscape. Newer studies in British Columbia indicate that public acceptance for visually evident disturbance would be greater at the lower thresholds.

- 3) Change the definition of "old growth", create a definition for "remnant old forest", and add protection for "remnant old forest" to the leave tree guidelines.

Old growth: A forest stand usually at least 180-220 years old with moderate to high canopy closure; a multi-layered, multi-species canopy dominated by large overstory trees; high incidence of large trees, some with broken tops and other indications of old and decaying wood (decadence); numerous large snags, and heavy accumulations of wood, including large logs on the ground. ~~Any stand of trees 10 acres or greater generally containing the following characteristics: 1) contain mature and overmature trees in the overstory and are well into the mature growth state; 2) in coniferous forests, will usually contain a multilayered canopy and trees of several age classes; 3) in coniferous forests, standing dead trees and down material are present; and 4) evidences of man's activities may be present, but do not significantly alter the other characteristics and would be a subordinate factor in description of such a stand.~~

Remnant old forest: Large trees in the overstory well into the mature growth state (older than 180 years old).

Rationale: The very little remaining “old growth” and patches of old trees warrant protection.

- 4) When trees are cleared for new agricultural use, require the new agricultural use to be established within the specified time frame. If the new agricultural use is not established as specified, then there is a violation subject to enforcement.

Rationale: Under the initial proposal, if the new agricultural use was not established as specified, then the clearing was to be reforested. A potential loop-hole was created since an applicant could clear the trees, then simply reforest if the new agricultural use was not implemented.

- 5) Apply a 15-acre limit to clearing trees for new agricultural use.

Rationale: The 15 acre limit is consistent with the forest practice created opening size limit. Limiting clearings for new agricultural use to 15 acres helps ensure that an applicant could not use these provisions as a way around the forest practice limits on size of created openings.

- Other organizational changes in this chapter include:
 - The distinction of Federal Forest and non-Federal Forest land is no longer useful and has been deleted. Where there are different guidelines for National Forest lands designated Forest, the term “National Forest land” is used.
 - Policies 5, 6 and 7 were revised/deleted for current conditions.

Part II, Chapter 3: Open Space

- The chapter was reorganized to follow the format of other chapters, with subsections for “Uses Allowed Outright”, “Uses Allowed through the Expedited Development Review Process”, and “Review Uses”. These modifications were considered an organizational change.
- Review Use Guideline 1(B) includes language clarifying that vegetation management and forest practices for forest health enhancement are considered “resource enhancement”, and are therefore allowed in SMA Open Space.
- Review Use Guideline 1(C) was modified to include recreation “developments”, so that structures such as trails, parking lots and restrooms are expressly allowed.

Part II, Chapter 4: Residential Land

- A minor language change was made to Review Use Guideline 1 (“shall” was changed to “may”) to make this chapter consistent with the language of the other SMA Land Use Designation chapters.

Part II, Chapter 5: Commercial Land

- Since there is no land designated “Commercial” in the SMA, the SMA Provisions in this chapter were deleted. The three SMA guidelines in this chapter are encompassed in Part II, Chapter 7 of the Management Plan. Guidelines 1 and 3 are encompassed in the Existing Uses, Discontinued Uses section; Guideline 2 is encompassed in the SMA Sign Provisions. Minor language changes were made to the Introductory portion of this chapter. These modifications were considered an organizational change.

Part II, Chapter 6: Recreation Designations

- A minor language change was made to Review Use Guideline 1 (“shall” was changed to “may”) to make this chapter consistent with the language of the other SMA Land Use Designation chapters.
- A new guideline was added (Review Use Guideline E) to implement Public Recreation Policies 6 and 7, which outlined the conditions under which a new house may be allowed in the SMA Public Recreation LUD.
- The Commercial Recreation guideline was deleted since there is no SMA Commercial Recreation designation, and commercial recreation is listed as a Review Use in SMA Agricultural and SMA Forest. This modification was considered an organizational change.

Part II, Chapter 7: General Policies and Guidelines

- **Dredge Spoils:** The Area Manager directed staff to draft a provision not included in the preliminary draft provisions, in which the applicant (e.g., state transportation department or county public works department) must demonstrate it is not practicable to locate the disposal site outside the Scenic Area or inside an Urban Area. Staff added a guideline to carry out this requirement (Guideline 2 in “Disposal Sites for Spoil Materials from Public Road Maintenance Activities” in Part II, Chapter 7).

The Area Manager decided it was not necessary to include the provision of the July 2003 memo which would have allowed Emergency/Disaster Response Actions Guideline 7 to “take effect two years after the date of Management Plan concurrence by the U.S. Secretary of Agriculture, or approval of a disposal site, which ever comes first.” Given the time it will take to develop land use ordinances, at least a year would likely pass before these provisions would be in effect.

- **Replacement Structures:** The Area Manager directed staff to draft several provisions that were not finalized or included in the preliminary draft provisions. First, the Area Manager decided replacement structures for structures destroyed by disaster may be slightly larger than the original structures. Staff added a guideline to allow this flexibility (Guideline 3.C in “Existing and Discontinued Uses” in Part II, Chapter 7).

Second, the Area Manager decided to limit the amount of new vegetation required to screen a replacement structure for a structure destroyed by disaster. This direction was revised in the

Draft Revised Management Plan to use the Scenic Resources Implementation Handbook to determine approvable species and tree sizes, and to utilize a 5 year timeframe to achieve to applicable scenic standard (Guideline 3.D(4) in "Existing and Discontinued Uses" in Part II, Chapter 7).

In addition, the Area Manager decided to incorporate into the Draft Revised Management Plan the GMA provisions that allow a replacement structure for a structure destroyed by disaster to be located in a different location than the original structure if the original building site is no longer suitable for construction. Staff added a guideline to allow this exception (Guideline 3.B(1) in "Existing and Discontinued Uses" in Part II, Chapter 7), with further guidelines to protect treaty rights and scenic, cultural and natural resources (Guidelines 3.B(2) and (3) in "Existing and Discontinued Uses" in Part II, Chapter 7).

- Expedited Development Review Process: In October 2003, the Area Manager and Gorge Commission discussed the procedures and time frame for submitting comments on applications processed under the expedited development review process, and decided to require reviewing agencies to allow interested parties at least 10 calendar days from the date a notice is publicized to mail written comments (Guideline 2.A in "Procedural Guidelines" in "Expedited Development Review Process" in Part II, Chapter 7).

However, Staff recommend the following two changes to address concerns that the mail may take a week or more to arrive in planning offices, thereby hampering planners' ability to issue decisions in an accelerated manner. First, replace the word "mail" with "submit" in Guideline 2.A:

Reviewing agencies shall allow interested parties at least 10 calendar days from the date a notice is mailed and/or posted to ~~mail~~ submit written comments on the proposed development.

Second, add the following definition of "submit" to the Glossary:

Submit: To deliver a document (e.g., land use application, written comment) to a reviewing agency's office by personal delivery, commercial delivery, mail, fax, or E-mail. When a document must be submitted within a specified period, it must arrive at the reviewing agency's office by the close of business on the last day of the specified period.

In reviewing procedural guidelines, staff recognized that the expedited development review process does not include notice requirements. To address this omission, staff added guidelines that require reviewing agencies to send a notice of all proposed developments to be reviewed under the expedited review process to: (1) tribal governments, (2) appropriate state agencies, (3) Gorge Commission, (4) Forest Service, and (5) landowners with 200 feet (Guidelines 1.A and B in "Procedural Guidelines" in "Expedited Development Review Process" in Part II, Chapter 7).

In reviewing the resource protection guidelines for the expedited development review process, staff realized that the provisions tentatively approved by the Commission did not address Indian treaty rights. The Scenic Area Act prohibits development that would affect treaty rights. Staff added guidelines that require reviewing agencies to address treaty rights (Guidelines 2.A, B., and C in "Resources and Treaty Rights Protection Guidelines" in "Expedited Development Review Process" in Part II, Chapter 7).

- The SMA Sign Provisions have been reorganized, with the temporary signs of Guideline 5 (A-F) and the small signs (2 square feet) of guideline 7A moved to "Uses Allowed Outright" in this chapter and combined with similar GMA sign provisions.
- The SMA Transportation section was deleted, with sign provisions moved to the SMA Signs Provisions, and recreation related provisions moved to Part I, Chapter 4, Recreation Resources. Several of the SMA Transportation provisions were deleted because they were redundant with other Management Plan provisions.

Part IV, Chapter 2: Forest Service Role

- The land acquisition direction was updated. Updates to SMA boundaries were included, and minor changes were made to the monitoring language and National Forest System Lands direction.

Glossary

- New definitions are included that were proposed in the October 31, 2003 Forest chapter. In addition, as discussed above under Part II, Chapter 2, Forest Land, the definition of "old growth" was revised and a definition of "old remnant forest" was added. A definition of "characteristic landscape" was also added for the SMA.

Maps of Changes to SMA Land Use Designations/Recreation Intensity Class

Four changes to Land Use Designations and one change to a Recreation Intensity Class are displayed on these maps.

- Chenoweth Table Property (Forest Service): Designate approximately 310 acres as SMA Open Space.
- Cape Horn Trust Property: Designate 27.6-acre property as SMA Forest.
- Kantjas Property: Change approximately 2.5 acres from SMA Open Space to SMA Forest.
- Multnomah Falls, Benson Bridge: Change approximately 3 acres from SMA Open Space to SMA Public Recreation. Change about one acre from RIC 4 to RIC 1.



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February 24, 2004

Anne W. Squier, Chair
Columbia River Gorge Commission
P.O. Box 730
White Salmon, WA 98672

Dan Harkenrider, Area Manager
Forest Service – National Scenic Area
902 Wasco, Suite 200
Hood River, OR 97031

Re: Draft Revised Management Plan for the Columbia River Gorge National Scenic Area

Dear Ms. Squier and Mr. Harkenrider:

On behalf of Skamania County, I would like to take this opportunity to thank you for your continued invitation to participate in the Management Plan Review process. All six counties within the National Scenic Area have taken an active role as partner agencies during this review process. County Planners (or representatives) have attended the Land Use Technical Advisory Committee meetings, Scenic Subcommittee meetings, Natural, Agricultural and Forest Lands meetings, as well as numerous Gorge Commission meetings and public hearings. Skamania County recognizes the difficulty of this enormous task and appreciates the effort put forth by both of you, the other Gorge Commission members, the Gorge Commission staff and the Forest Service staff.

Recently we had the opportunity to review the Draft Revised Management Plan released on January 26, 2004. Skamania County Planning Staff was requested to thoroughly review this document and provide detailed comments on content, grammar and formatting. The Board of County Commissioners has reviewed the Planning Department's efforts and as detailed below are Skamania County's formal comments. However, we may have additional comments after the public hearing, but before the March 10, 2004 comment deadline.

Part 1, Chapter 1: Scenic Resources

[Page I-2: (4)] This provision contains the language "except for buildings smaller than 60 square feet in area and less than 18 feet in height". This "exempt" structure is proposed to have its height limit changed to 12 feet. The new height limit of 12' should be listed here and throughout the Management Plan, the guideline should read "for buildings smaller than 60 square feet in area and 12 feet or less in height." **Unless the exemption size gets increased, then the language should be consistent in each section (uses allowed without review, expedited development review and review uses).**

[Page I-2 and I-3] Mining reclamation plan guidelines – This is a good change to the Management Plan that removes the “Catch 22” for residents of the State of Washington. We agree with the proposed change.

[Page I-5-I-6 and I-31] Scenic Resources Implementation Handbook – The handbook is going to be a terrific tool if it is developed by county planners, Gorge Commission staff, and Forest Service staff, etc., but not exclusively by the Gorge Commissioners (see suggested language below). All colors, materials, and species listed in the book must be readily available. No crazy species or hard to get window types, etc.

Suggested language [Page I-5 and I-6: (10) line 7]: In developing the *Handbook*, the Commission and Forest Service will collaborate with the implementing counties and solicit public input. *The contents in the Handbook will be agreed upon by a majority vote of one representative from each implementing county (5), the Forest Service (1) and the Gorge Commission (1), a majority vote requires four representatives to agree.* It shall be completed by the end of 2005 and may be updated as needed, as determined by the Executive Director and Scenic Area Manager *with agreement from at least a majority of the implementing counties.* Until the *Handbook* is completed, consistency with color, reflectivity and landscaping guidelines shall be determined solely on application of the standards contained in the guidelines.

[Page I-6: (1)] Application of key viewing area guidelines – This is a beneficial clarification of when the KVA criteria apply. This is important, as many times in the past, planners have assumed that trees and other structures alone are sufficient for screening purposes. However, both of these screening features are temporary and do not ensure that new development will be adequately conditioned if in the future either the intervening vegetation or structures are removed. We agree with the proposed change. However, from past experience the planning staff does know this concept is difficult for property owners to generally accept, especially in heavily vegetated areas.

[Page I-6: (5)] Siting guidelines – This is the criterion that is proposing to remove the term “minimize visibility”. This is a good idea. The term “minimize visibility” has only been applied in one case and that was the Bea case. Both before and after the Bea case the term “minimize visibility” has never truly been used to site homes. The new provisions intended to replace this term and clarify the meaning of achieving visual subordination are better than the term “minimize visibility”. We agree with the proposed change.

[Page I-7: 9(A)] If alternate sites must be considered prior to using new landscaping to achieve visual subordination, there potentially will be multiple re-notices of development reviews and public outcry against the process. Applicants may have to be told up front that their proposed sites are not likely to be approved. This is a general comment and is made so everyone understands an increased number of pre-application meetings should take place in the future and public awareness of siting issues will need more staff attention.

Suggested language [Page I-7: (C)] Landscaping –The language in the second line should be changed to include, “prior to project completion *and issuance of an Occupancy permit for dwellings*”.

[Page I-8: (10)] Screening vegetation and fuel break requirements – We agree with this language. However, the language for fuel break requirements should be required for all new and replacement dwellings in all land use designations (LUD) where you can have dwellings.

[Page I-8: (11) and Page I-39: (12)] Colors – The “shadows” concept will be difficult to implement consistently throughout the Gorge, hard to describe to the applicant, and is not necessary if colors are already mandated to be dark earth-tone, and are referred to the implementation handbook with information on approvable colors.

Suggested language [Page I-8: (11) and Page I-39 (12)] Unless expressly exempted by other provisions in this chapter, colors of structures on sites visible from key viewing areas shall be dark earth-tones found at the specific site. The specific colors or list of acceptable colors shall be included as a condition of approval, and shall be within the range of pre-approved palette of colors in the *Scenic Resources Implementation Handbook*.

If colors are listed as a condition of approval the county decisions should be able to list several approved colors that could be submitted if applicants change their mind or one color is out of stock. Applicants often decide on final colors prior to construction—more often than not, they change the colors multiple times. Providing multiple approved colors could be a means of avoiding multiple Letter Amendments (**and costly time delays**), which are required for minor changes to approved projects, site plans, or conditions of approval.

[Page I-41: “SMA Guidelines for areas not seen from KVAs”] – We agree with the proposed change. However, it was disappointing to find that the provision to require all structures to be earth tone colors, regardless of visibility from KVAs, was missing from the GMA portion of the document. This is just one more example in which the SMA is different than the GMA, which makes for an administration nightmare. It would provide more equality to the citizens of the gorge to say that all homes/buildings/structures shall be an earth tone color that blends in with the surrounding area and add, “if visible from a KVA, the color needs to be a dark, earth tone color that blends with the surrounding area”. To unify the National Scenic Area, all homes with regards to color should be required to meet a minimum base line (earth-tone colors) and that all homes should be required to be compatible with the colors found in the particular landscape setting.

[Page I-8: (12)] Reflectivity – This provision is where metal roofing needs to be addressed. Should some type of additional treatment be required or should the use of metal roofs be prohibited? Additionally, it is incorrect to reference the “Visibility and Reflectivity Matrices” in a handbook that does not exist. To correct this, the text could reference “in the *Handbook* once created”

[Page I-21: (6)] The phrase “natural or earth-tone colors” is mentioned; yet in the other landscape settings any reference to colors has been removed. This color reference should be removed from the text.

[Page I-24] Scenic Highway Corridor Strategy – This is a great addition to the Management Plan. [Page I-39: (2)] the language should be made the same as that used in pages I-23 and I-24. We agree with the proposed change.

[Page I-30: (1)] “Character” is defined, this belongs in the glossary.

[I-33: (2)] Delete all words after “scenic standard is met”.

[I-35] The table will be useful for implementation.

[Page I-37: (5)] The language here should be changed to match the language in the GMA section. Under the last line, the following language should be added between the words “over” and “planting”: “other means of achieving the scenic standard, such as”.

Suggested language [Page I-38: (11)] Under (A) the language should be changed to state, “*New landscaping (including new earth berms) to achieve the required scenic standard from key viewing areas shall be used required only when...*”. Under (B) fourth line, the language should be changed to state, “*Any trees vegetation planted pursuant...*”.

[Page I-39] It is incorrect to reference the “Visibility and Reflectivity Matrices” in a handbook that does not exist. To correct this, the text could reference “in the *Handbook*, once created”.

[Page I-40: (3)] Under line 5, language should be clarified to state: “shall, at a minimum, include: *a) design guidelines (e.g. materials, conceptual designs, etc.) for typical projects that are consistent with Management Plan scenic resources provisions and b) an interdisciplinary...*”.

[Page I-40: (4)] The term “road prism” needs to be defined and placed in the glossary.

[Page I-40: (4)] “Immediate foregrounds” is defined—a definition should not be stated within the code, it should be placed within the glossary.

[Page I-41: B (2)] The text should be replaced with the following:

Color – Color shall be found at the project’s specific site. Colors shall be chosen and repeated as needed to provide unity to the whole design.

Miscellaneous items

Comment Period for SMA: All Scenic Resource comments shall be received by the local governments within 30 days of notice.

SMA Provisions: Add somewhere that the USFS must respond within 30 days of notification of development during the full review process.

Part 1, Chapter 3: Natural Resources

***SMA changes seem good and bring the GMA and SMA sections closer together.

***Ephemeral Streams need to be listed in this section or it should be removed from the glossary and the expedited development review section. Are there any buffer requirements to this type of stream?

***The Management Plan should differentiate, in either code or definition, between water resources that are natural versus those that are man-made. Skamania County does not support natural resource protection guidelines applying to man-made features.

[Page I-44: (4)] We agree with this provision, as long as “and any subsequent amendments” is removed from the last line. The 1989 manual was a subsequent amendment that is no longer in use. The GMA and SMA should continue to use the same manual and if the manual is amended then the code sections in both the GMA and SMA should be amended at that time. If the Gorge Commission decides to keep the text the way it is, they are empowering the Corps of Engineers with the Gorge Commission’s legislated authority. If the Corps of Engineers changes its manual and the Gorge Commission disagrees with the change, the Gorge Commission should decide at that time whether or not to include the new manual changes into the Management Plan.

[Page I-47(2) and I-56] We agree with the addition of uses with minor effects potentially being allowed within the buffer zone.

[Page I-51: (2)] The phrase “and any subsequent amendments” should be removed from the last line. The 1989 manual was a subsequent amendment that is no longer in use. The GMA and SMA should continue to use the same manual and if the manual is amended then the code sections in both the GMA and SMA should be amended at that time. If the Gorge Commission decides to keep the text the way it is, they are empowering the Corps of Engineers with the Gorge Commission’s legislated authority. If the Corps of Engineers changes its manual and the Gorge Commission disagrees with the change, the Gorge Commission should decide at that time whether or not to include the new manual changes into the Management Plan.

[Page I-58: C(1)] We agree with this update.

[I-64: (2)] This is a reasonable change, as it exempts most utility work from needing a field survey for wildlife since most of the utility work projects have been in existing utility or road right-of-ways. However, the “maintained annually” could lead to some concerns if annual maintenance is not conducted. We agree the proposed definitions for “previously disturbed” and “regularly maintained” as listed in the Gorge Commission summary letter should be included in the glossary.

[Page I-65: (5)] We agree with the change.

[Page I-70 and I-71: (2)] Under “Site Plans and Field Surveys for Review Uses Near Sensitive Plants”, we agree with this change.

[Page I-79] This is a reasonable addition to the Management Plan.

[Page I-81: (1), (3), (5) and (8)] (1) We disagree that “cumulative off-site impacts” are something that can be reviewed and used to penalize a new project. One applicant should not be penalized for what a neighbor may have done. (3) There is no definition in the glossary for “viable population”. A definition should be added. (5) We agree with this provision. (8) “Adversely affect” is somewhat defined—a definition should not be stated within the code, it should be placed within the glossary.

Suggested language [Page I-82: (13)] Since the land use designation has been established, the language should be changed to state, “Natural areas that are potentially eligible for the Oregon Register of Natural Heritage Resources or the Washington Register of Natural Areas Program shall

be have been designated as Open Space in the SMA”. **Unless there is intent to rezone more areas to Open Space within the SMA, to which the County is strongly opposed.**

Suggested language [Page I-83: 2(A) and 2(A)3(c)] 2(A) At the top of the page, in the second line there is a reference to an undetermined Section, the language should be changed to state, “buffer zones as specified in (2)(a) and (2)(b) below.” In 2(A)3(c), it should state that, “When it is determined by the local government that the recommended...”

Suggested language [Page I-84: (6)] In the fourth/fifth line, the language should be changed to say, “all written comments shall be included in the application file”, rather than “be recorded”.

Suggested language [Page I-85: G(2)] In the second line, it should be stated that “public safety and or restoration/enhancement” in order to be consistent with the remaining text.

Suggested language [Page I-86: 3(C) and 3(C)3] 3(C) The language should be changed to state, “The Forest Service wildlife biologists and/or botanists, in consultation with the appropriate state biologists, shall review the site plan and their field survey records and submit recommendations to the local government. If no recommendations are received within 14 days, it will be understood that the proposed project has no effect on wildlife and/or plants.” This proposal would save Forest Service and State resource staff time by not requiring a response when a response is not necessary. It also frees more of their time to work on the important Natural Resource issues. Under 3(C)(3)“Cumulative effects” are mentioned, which somewhat varies from the “cumulative off-site impacts” mentioned above.

[Page I-91: (3)] Here “new cultivation as an agricultural use” is mentioned. The text “as an agricultural use” should be deleted.

[Page I-93: 9(C)] This should also state something to the effect of “except noxious weeds”.

[Page I-94: (E)] “Replacement” is somewhat defined, this should be in the glossary.

[Page I-94: F(3)] While the two criteria are related, the second sentence should be its own code provision.

Part 1, Chapter 4: SMA Recreation Resources

No comment.

Part 2, Chapter 1: Agricultural Land

[Page II-6: (C)] This is an example of a place in the Management Plan where you encounter “agricultural buildings”, which are not defined in the glossary. The definition of “agricultural structure” includes barns and processing facilities, which are buildings. This is a problem in the Land Use Designations. The definition of agricultural structures should be written as “agricultural structure/building”, similar to how “accessory structure/building” is listed in the Glossary.

[Page II-6: E(1) and F(1) and II-18 H(1) and I(1)] This should be changed in all locations in the Management Plan--buildings allowed without review should not be factored into the combined footprints for the limits placed on accessory buildings.

[Page II-6: E(2) and F(3) and II-18 H(2) and I(3)] Where is the 24' to be measured from (top of footer, average existing grade, post grading grade, first finished floor, etc.), or is the measurement location to be determined by the local jurisdictions?

[Page II-8: (K)(1)] Here "relative" is defined, this should be in the glossary.

[Page II-10: (X) and II-20 (Z)] The county disagrees with requiring someone to receive NSA approval for removal of a well, septic tank, and fuel tank because they are reviewed by other agencies, such as the Washington State Department of Ecology or local health authority. We agree that a review for demolition of historic buildings should be required. This should be changed in all locations in the Management Plan-- If this provision is kept, it would also be problematic because there are often no records for the septic tanks that need to be replaced, how would we process one that has an unknown age (either normal review or expedited review)?

Suggested language [Page II-11: (D)] The language should be changed to include, "Wineries *and tasting rooms*, in conjunction with onsite viticulture...".

[Page II-16: (A)] Clearing trees for a new agricultural use in an Agricultural Land Designation should not be limited by the rules in the Forest Land Designation. If the proposed language is adopted, the result would be to limit new cultivation and/or new agricultural uses in lands designated for agriculture. By using the Forest Land's limit of 15 acres in the Agricultural Land, new agriculture in the Agricultural Lands Designation may not be a viable commercial agricultural operation in the areas of the gorge that were supposed to be protected for commercial agriculture.

Section A should be revised as follows: "New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas. Within the Agricultural Land Designation, clearing trees for new agricultural uses is NOT subject to the additional requirements of Part II, Chapter 2: SMA Forest Land – review uses 1(W)."

[Page II-17: (F)] No longer requiring agricultural buildings in the SMA to meet the income test is a very sensible improvement. Agricultural buildings should not only be allowed for farms grossing over \$40,000 but instead for all properties that are actively being farmed. We agree with the proposed change.

Part 2, Chapter 2: Forest Land

[Page II-28: L(1) and M(1) and II-40 L(1) and M(1)] This should be changed in all locations in the Management Plan--buildings allowed without review should not be factored into the combined footprints for the limits placed on accessory buildings.

[Page II-28: L(2) and M(3) and II-40 L(2) and M(3)] Where is the 24' to be measured from (top of footer, average existing grade, post grading grade, first finished floor, etc.), or is the measurement location to be determined by the local jurisdictions? The font size needs to be corrected in this section as well.

[Page II-30 (BB) and II-41 (U)] The county disagrees with requiring someone to receive NSA approval for removal of a well, septic tank, and fuel tank because they are reviewed by other agencies, such as the Washington State Department of Ecology or local health authority. We agree that a review for demolition of historic buildings should be required. This should be changed in all locations in the Management Plan-- If this provision is kept, it would also be problematic because there are often no records for the septic tanks that need to be replaced, how would we process one that has an unknown age (either normal review or expedited review)?

Suggested language [Page II-38: 1 (A)] This should be revised in order to eliminate conflicting provisions. It should state, "*Review uses 1C, 1D, 1E, 1F, 1K, 1L, 1P, 1Q, 1S, and 1V allowed for in Part II, Chapter 1: SMA Agricultural Land*".

Suggested language [Page II-41: (W)] Some language needs to be added for clarification, "Clearing trees for new agriculture *within the Forest Lands designations*, with the following steps and subject to the following additional guidelines:" Under (W)(3)(a), "*in Review Uses*" should be added after Scenic Resource guidelines.

[Page II-42] "New agriculture" and "new agricultural use" are used throughout the Management Plan. Only one term should be used.

[Page II-42: (5)] For clarification, "forested lands" should read "*Forest Lands*".

[Page II-42: (7)] "Operation" should be defined. Does it mean crops planted, crops ready for harvest, stables built and ready for cattle, cattle production on-site or something else?

[Page II-43: (X)(1)(c)] This needs to explain which natural and scenic standards are required to be met. All of the SMA criteria listed in the natural and scenic sections or just certain criteria. This section needs more work. The County is unsure of what is meant with this criterion.

Suggested language [Page II-44: d] For clarification the words "*on lands designated Forest Land*" should be placed after the words "For clearing trees for new agriculture,". Under d(iii), an "agricultural specialist" is somewhat defined; this should be in the glossary.

Suggested language [Page II-45: (d) and (e) and (f)(ii)] "*in Review Uses*" should be added after Natural Resource guidelines.

[Page II-45: (f)] What is "treatment"? This needs to be defined or clarified so that anyone reading the Management Plan knows what is being discussed.

[Page II-46: 5(a)] "Forest tree stand structure" is defined; this should be in the glossary.

[Page II-48] In column 3, row 2 of the table, does the "up to 5 acres in the foreground of KVAs" mean a different standard for new agricultural clearing which is listed as limited to 15 acres? If so this needs to be written in the code section.

Part 2, Chapter 3: Open Space

Suggested language [Page II-51: 2(C)] Language should be changed to say “~~Repair, maintenance, operation, and improvement~~ *Expansion* of existing structures...”

Suggested language [Page II-52: (G)] The proposed language should be clarified to say: *Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in “Lot Line Adjustments” (Part II, Chapter 7: General Policies and Guidelines).*

[Page II-58: 4(E)] The county disagrees with requiring someone to receive NSA approval for removal of a well, septic tank, and fuel tank because they are reviewed by other agencies, such as the Washington State Department of Ecology or the local health authority. We agree that a review for demolition of historic buildings should be required. This should be changed in all locations in the Management Plan-- If this provision is kept, it would also be problematic because there are often no records for the septic tanks that need to be replaced, how would we process one that has an unknown age (either normal review or expedited review)?

Part 2, Chapter 4: Residential Land

[Page II-65: C(1) and II-70 1(C)(1) and II-71 D(1)] This should be changed in all locations in the Management Plan--buildings allowed without review should not be factored into the combined footprints for the limits placed on accessory buildings.

[Page II-65: C(2) and II-70 1(C)(2) and II-71 D(3):] Where is the 24’ to be measured from (top of footer, average existing grade, post grading grade, first finished floor, etc.), or is the measurement location to be determined by the local jurisdictions?

[Page II-65: C] Residential Lands should also contain the text language and provisions listing accessory structures on parcels larger than 10 acres.

[Page II-66: 1(O)] The county disagrees with requiring someone to receive NSA approval for removal of a well, septic tank, and fuel tank because they are reviewed by other agencies, such as the Washington State Department of Ecology or local health authority. We agree that a review for demolition of historic buildings should be required. This should be changed in all locations in the Management Plan-- If this provision is kept, it would also be problematic because there are often no records for the septic tanks that need to be replaced, how would we process one that has an unknown age (either normal review or expedited review)?

Part 2, Chapter 5: Commercial Land

[Page II-78] “Docks and boat houses” should be listed as review uses in the Rural Center designation.

[Page II-79: C(1) and Page II-81: 1(G)(1)] This should be changed in all locations in the Management Plan--buildings allowed without review should not be factored into the combined footprints for the limits placed on accessory buildings.

[Page II-79: C(2) and Page II-81: 1(G)(2)] Where is the 24' to be measured from (top of footer, average existing grade, post grading grade, first finished floor, etc.), or is the measurement location to be determined by the local jurisdictions?

[Page II-82] "Personal services such as but not limited to barber and beauty shops, fitness centers, and exercise classrooms" should be included as review uses in the Commercial Designation.

[Page II-82] "Community centers and meeting halls" should be included as review uses in the Commercial Designation.

Part 2, Chapter 6: Recreation Designations

Suggested language [Page II-86: 4] The language should be changed to expand the list of review uses allowed on privately owned land zoned Public Recreation. Proposed language is, "Commercial uses shall be allowed if they are: 1) part of an existing or approved public recreation use or 2) would occur on privately owned lands designated Public Recreation; and are consistent with the policies and guidelines contained in this chapter for private concessions and commercial uses at recreation sites."

Suggested language [Page II-87: 1(B)] The language should be changed here to expand review uses on private land zoned Public Recreation. Proposed language is, "Commercial uses and non-resource based recreation uses that are: 1) part of an existing or approved resource-based public recreation use, or 2) would occur on privately owned lands designated Public Recreation, and are consistent with the policies, guidelines, and conditional use criteria for such uses contained in this section."

[Page II-87: 2C(1) and II-92: 2C(1) and II-96: (G)(1) and II-96: H(1)] This should be changed in all locations in the Management Plan--buildings allowed without review should not be factored into the combined footprints for the limits placed on accessory buildings.

[Page II-87: 2C(2) and II-92: 2C(2) and II-96: G(2) and II-96: H(3)] Where is the 24' to be measured from (top of footer, average existing grade, post grading grade, first finished floor, etc.), or is the measurement location to be determined by the local jurisdictions?

Suggested language [Page II-93: (4)] The proposed language should be clarified to say: *Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (Part II, Chapter 7: General Policies and Guidelines).*

[Page II-97: (P)] The county disagrees with requiring someone to receive NSA approval for removal of a well, septic tank, and fuel tank because they are reviewed by other agencies, such as the Washington State Department of Ecology or the local health authority. We agree that a review for demolition of historic buildings should be required. This should be changed in all locations in the Management Plan-- If this provision is kept, it would also be problematic because there are often no records for the septic tanks that need to be replaced, how would we process one that has an unknown age (either normal review or expedited review)?

Part 2, Chapter 7: General Policies and Guidelines

[Page II-100: Standards for Applications, Expiration of Approvals, Vested Rights]

Standards for applications, expiration of approvals, vested rights, existing uses and discontinued uses—

***General Comment: This is an entirely new section. In some ways this is good and will help the County administer the rules. However, the timelines are too short to allow someone to develop their property.

Standards for Applications

Suggested language [Page II-100: (1)] This requires all reports, etc. for wildlife, cultural and plants to be provided to the Department before the application is determined to be complete. This requires a pre-review of the application to determine which studies are needed. Then we would require the studies to be submitted and reviewed, and upon acceptance of the studies, would the application be determined complete. This process conflicts with Regulatory Reform in Washington State. The determination of completeness is required first and then if additional studies are required the time clock stops. However, staff cannot review an incomplete application, but staff has to review the application to determine if any studies are required. All plans and studies being required at time of submittal is problematic, often it is not known if a mitigation plan will be needed until review is underway. The text on Page II-100: 1(3) should read: “all *known* applicable information specified in parts of the Management Plan titled Resource Protection and Enhancement, Land Use Designations, and Administration, and *additional information may be required as a part of the review process*. Incomplete applications shall not be reviewed.”

Expiration of Approvals – [Page II-101: (2)] This requires non-structural activities and land divisions to be complete 2 years from the date of the issuance of the Administrative decision. Currently, our applicants rarely meet this requirement. For example:

Of the five short plats that have been completed, the average time it takes to record the short plat, after the issuance of the National Scenic Area (NSA) Administrative Decision, is 2.95 years. The longest took 3.75 years and the shortest was 2 years, for the short plat to record after the issuance of the NSA Administrative Decision.

Suggested language [Page II-101: (2)] The last line needs to be changed to say, “means a *complete application (other than the NSA application) for land division has been received by the local government*”.

[Page II-101: (3)] Only gives a maximum of 4 years (without exemptions) to have a structure completed from the date of the issuance of the Administrative Decision and only 2 years to complete the structure. This is a drastic change. Currently, the only requirement is that the original Administrative Decision is good for 2 years and once development starts it may continue so long as the development is not discontinued for a period exceeding 12 months. Under the current regulations, a project could be kept active for 5 or 10 years considering all of the tasks necessary to build a home or related project. For example, in the first year they could drill the well, second year put in the septic, third year extend the telephone and power service to the home site, fourth year pour the foundation, fifth year frame the structure, sixth year complete exterior work, year 7 etc, etc.

Under the proposed language all of this would have to be completed in 2 years. This language will cause a hardship on many people in the Scenic Area, and Skamania County doesn't support the language as proposed.

Many projects take longer than four years to complete, especially in bad economic markets, weather delays, etc. Additionally, many loans and grants are based on NSA approval. For example, the Home Valley Water District still has 3-5 months of grant work to complete after they received the NSA approval. Also a real estate deal may take an additional amount of time after receiving NSA approval before they could begin work. What would a County be required to do when a Land Use Approval expires due to timelines and use of extensions, but the building is only partially constructed? Would the County have to require the applicant to re-apply or require the building to be torn down? **Skamania County disagrees with both of these options and proposes the following language:**

Expiration of Approvals

3. Land Use Approvals With Structures: Any land use approval issued pursuant to this Management Plan for a use or development that includes a structure shall expire as follows:
 - A. When construction has not commenced within two years of the date of the land use approval became final, or
 - B. When the construction action, once commenced, is not diligently pursued for any reason for one year or more. A construction action is being diligently pursued if the applicant spends two thousand (2,000) dollars or more on an annual basis as part of on the groundwork and/or construction for the project (access roads, septic, utilities, construction of buildings, etc.) and annually submits proof of expenditures to the Planning Department, and provided that the building permit has not expired.

[Page II-101: (4)] Construction should mean starting the project (wells, driveway, etc.), not foundation/framing. Often utilities/roads, etc. take longer to get in than framing a small house. For roads, commencement shall mean logging, clearing, etc. for road project, not grading.

[Page II-101: (6)] This only provides for one extension in either breaking ground or completing construction. If the shortened time frames are adopted, then the Gorge Commission should allow for multiple extensions.

Vested Rights

[Page II-102: (7)] This provision is also a big change. In the past, the law of vested rights of each state were applied to land use decisions in each state. Now those no longer apply. This is by far the most radical of vested rights doctrines that we are aware of. In the State of Oregon a project vests after substantial expenditure in furtherance of the project is expended – this is the norm, across the country. The State of Washington follows the minority rule, which requires a project to have a building permit before it vests, regardless of expenditure on the project. Under the proposed rule, a person could be vested under both rules and still not have a vested right. A person could have a building permit and spent considerable amounts of money toward the project, yet the 2 year

construction window + 1 year extension could expire and there would be no vested right to complete the project.

[Page II-103: (2)] Add the word “the” between the words “date” and “use”.

[Page II-103: (2)(A)] This should be modified to include the following words at the end of the provision “or a framed residence may be replaced with a mobile home.”

[Page II-104: 3] In 3(a), it may be hard to determine existing height and locations of trees. Remove the following unnecessary text “unless the applicant chooses to use all coniferous vegetation”.

[Page II-104: 3(D)(3)(a)] Skamania County agrees with including the proposed guideline text as shown in the Gorge Commission Summary letter. This will help to avoid misinterpretations in situations where the original structure was constructed under a National Scenic Area decision that included landscaping requirements.

[Page II-105: 3(D)(5)(d)] The proposed text should be replaced with the following text: The timeframe for achieving visual subordination shall be 10 years.

[Page II-105: 4] The word “retention” needs to be replaced with the words “not visually evident”.

[Page II-105: 4(a)] The text “The Scenic Resource Implementation Handbook” should be in italics.

[Page II-105: 4(c)] The word “retention” needs to be replaced with the words “not visually evident” and the 5 year timeframe needs to be replaced with a 10 year timeframe to be consistent with the GMA.

[Page II-107: (1)] Who is an “interested party”? The words “other interested party” need to be replaced with the words “their designee”.

Existing Uses and Discontinued Uses

[Page II-107: (5)] Discontinuance of Existing Uses and Structures: This proposes to legislate away our Anderson RV Park case, in which we won the right to apply State of Washington law to existing uses. State of Washington law requires non-use plus proof of intent to abandon the use. Under the proposed language, a mere non-use for 12 months results in a loss of any grandfathered rights. This is grossly unacceptable considering many of the properties in the gorge are second homes/vacation homes. It is not unusual for someone to be traveling or just at his or her primary place of residence while their gorge home lays vacant for more than a year. In addition, homes can lay vacant for more than a year while on the market for sale, or merely a foreclosure in which the bank is in possession. One option is to rent out the home. People have told the Planning Staff that they would rather their property lay empty than be subject to the abuse of a renter, however, the property owner has clearly not abandoned the building.

As such, if the Gorge Commission is intent upon removing the “intent to abandon” standard, then it must make an exception for properties that are in full operating condition and the landowner just happens to be out of town for more than 12 months. It is not sufficient to say that the owner can just re-apply in order to walk back into their home. For one thing, many homes would not be

eligible for a new home if they were on Agricultural land, Forest land or in the SMA. Secondly, they would have to wait a minimum of 3 to 4 months for the NSA review before they could get back in their home after they arrived back in town.

Skamania County proposes the following language:

Discontinuance of Existing Uses and Structures

5. Discontinuance of Existing Uses and Structures

- A. Uses without structures: Any use that is discontinued for more than three (3) years shall not be considered an existing use.
 - i. Multiple Uses: An existing use with more than one legally established use may discontinue one of the uses without discontinuing the others.
 - ii. Change in Use: An existing use shall become discontinued if the use or uses change.

- B. Uses with Structures: The use of a structure is discontinued if any of the following conditions are met:
 - i. the use is non-conforming based on **pre-existing use, not criteria of approval**, and is discontinued for three (3) years or more.
 - ii. the conforming use of the structure is discontinued for three (3) years or more.
 - iii. the structure is considered discontinued if the County Building Inspector has declared the building a “Dangerous Structure” under the Uniform Code for the Abatement of Dangerous Buildings and the building is not repaired in accordance with the current building code or other current code applicable to the type of substandard conditions requiring repair within one (1) year from date of Notice of Order for the Building Inspector becomes final.
 - iv. the structure is considered discontinued if the Health Official takes action to abate and abandon a structure and the current structure or associated utilities is not repaired in accordance with State Health Codes or other current code applicable to the type of substandard conditions requiring repair within one (1) year from date of Notice to Abate the structure becomes final.

Planning Staff Comment: *Three years will allow land to lay fallow, renters to be found for business, etc. It is particularly important for commercial uses, since finding new renters that want to operate the business as-is can be difficult and expensive. Re-establishing the previous use or establishing a different commercial use may not be allowed.*

[Page II-108: 1 (A) and (B)] Combine A and B into one provision. We recommend the SMA provision.

[Page II-109: (F) and (G)] These two provisions appear to conflict. Item (G) should be removed.

[Page II-110: (7)] This provision says replace or expand any culvert so long as all necessary other permits are obtained. This is a very good change. Under (8), “ephemeral streams” needs to be referenced in the Natural Resources Section as well.

[Page II-117 (1)(A)] Accessory buildings up to 120 sq. ft. and less than 12 feet in height should be allowed without review.

[Page II-117: 1 (F)] Please define what is meant by a “road closure gate”. Additionally, if this is just meant as a gate at the end of a road or driveway, then this use should be outright allowed.

[Page II-119: Resources and Treaty Rights Protection Guidelines 1(A)(1)] The “shadows” concept will be difficult to implement consistently throughout the Gorge, hard to describe to the applicant, and is not necessary if colors are already mandated to be dark earth-tone, and are referred to the implementation handbook with information on approvable colors.

[Page II-119: (R)] This provision could prevent someone from replacing a single wide mobile home with a double wide mobile home within an existing mobile home park. The text should be revised to allow the applicant to replace to fit inside of the approved mobile home space.

[Page II-122] Expedited development review process—Procedural Guidelines under Expedited Review: The entire Notice provision needs to be re-written by eliminating the notice and comment period for surrounding landowners and interested parties. The items allowed under expedited review are minor development activities. It would be sufficient to provide a Notice of Decision and an opportunity to appeal. The four tribal governments, the appropriate state, the Gorge Commission, and the Forest Service should be required to submit comments within 14 calendar days of the Notice of Application. Expedited Review won’t work unless the agency comments are received within a timely manner.

The cultural resources probability map needs to be supplied to each county administering the Management Plan in order to determine if a cultural survey and full review would be required on a project.

Suggested language [Page II-140: (D)] Lot line adjustments—This provides only two allowances for Lot Line Adjustments for lots that are less than the minimum lot size. In most areas of the gorge, the existing lots are less than the minimum lot size. As such, there would be a very limited number of lot line adjustments allowed. There are many good reasons to do a lot line adjustment beyond the two specified. At a minimum, a third category should be added. Specifically, a number 3 should be added as follows:

(3): Provide for alternative opportunities for resource management, including increasing existing neighboring farm and forest operations, provided (a) the parcel to be enlarged would not become eligible for a subsequent land division, (b) the amount of land transferred would be the minimum necessary to accomplish the stated purpose and (c) if in the A-1 zone the remaining parcel that loses the land shall not be so reduced in size to the point that it would qualify for a non-farm dwelling or otherwise be an uneconomically viable remnant.

This is important to enhance and encourage resource use of farm and forest land. For example, an existing farm operation could have the opportunity to expand if the farmer could purchase some extra land from the neighboring property owner. This could allow for fallow land to be put into production or allow a retiring farmer or just one that wants to cut back his size of operation, to sell

off some of the existing operation to a neighboring farmer. As stated above, most lots are already substandard, so the opportunity to do boundary line adjustments, such as these, which are actually beneficial to resource use, would be prohibited under the current proposal.

[Page II-141] The word “minor” should be deleted since boundary line adjustments are not always minor adjustments.

[Page II-141] Under “SMA Policies” (2) and under “SMA Guidelines” (3) need to be removed. (4)(A) Remove the following text “(1) the parcel to be enlarged would not become 40 acres or greater (2)”.

[Page II-147: (E) and (F)] These provisions allow “immediate family member”, Home Occupations allow “residents of the home”, and the Agricultural Lands section allows homes for “relatives of the agricultural operator”. Each of these provisions sets different requirements regarding “who” is considered “family”. This needs to be cleaned up and one standard should be set.

Suggested language [Page II-152: (4)] This provision needs to be clarified. Proposed language: “The Forest Service shall review and issue a determination of consistency with the Management Plan for *federal* projects on federal lands. The Forest Service shall review land use and development actions of federal agencies *on federal lands* for consistency with the Management Plan.” The proposed last sentence with regard to resource review should be removed or further explained.

Suggested language [Page II-154: (5)] The language needs to be changed here. Proposed language, “Where local governments have no regulatory authority over ~~state~~ and federal action *on federal land*, the Forest Service and ~~Gorge Commission~~ shall develop agreements with applicable ~~state~~, ~~bistate~~, or federal agencies for review of the agencies’ project proposals.

Suggested language [Page II-155 (4)] For clarification, “All new signs shall meet...” should say “All new signs *except those allowed without review*, shall meet...”.

Part 4, Chapter 2: Forest Service Role

No comment.

Glossary (*Suggested language shown in italics*)

Need to define the following words and include them in the glossary:

- Canopy closure
- Overstory trees
- Road Prism
- Understory trees
- Trailhead
- Submit – use the definition provided in the Gorge Commission summary letter
- Previously Disturbed – use the definition provided in the Gorge Commission summary letter

- Regularly Maintained – use the definition provided in the Gorge Commission summary letter

Agricultural structure— [1] The definition should clarify silos, water tanks, and irrigation supplies are agricultural structures not agricultural buildings. Additionally, as mentioned in comments above, the definition should be revised as follows, “Agricultural structure/*building*: A structure or detached building located on a farm or ranch and used in the operation for the storage, repair, and maintenance of farm equipment and supplies or for the raising and/or storage of crops and livestock, provided the structures shall not be used for human habitation. These include...”.

Characteristic landscape—[3] This phrase does not need to be used. The definition needs to be deleted.

Ephemeral streams (SMA)— [7] Will the Management Plan characterize an ephemeral stream as perennial or intermittent (the only options in the buffer requirements). The only location where an ephemeral stream is mentioned is under “Expedited Development Review”. This needs to be addressed in the Natural Resource section as well.

Immediate Family—[10] This definition is not fair to many groups of people, for example, unmarried couples, families harboring a child that is not their child, gay marriage not recognized in the State of Washington etc. A possible definition could be, “Any number of individuals living together in a dwelling unit sharing kitchen facilities for cooking.”

Multifamily dwelling—[13] This definition needs to be revised, “A dwelling constructed or modified into two three or more ~~single-family~~ *dwelling* units.

Not visually evident (SMA)—[13] It is incorrect to use the word you are defining in its own definition. This definition could be revised as follows: “A visual quality objective that provides for management activities that are not ~~visually evident~~ *obvious* to the casual visitor. Management activities may only repeat form, line, color, and texture that are frequently found in the ~~characteristic~~ *existing* landscape. Changes in *the development’s* ~~their~~ qualities of size, amount, intensity, direction, pattern, etc., shall not be ~~evident~~ *obvious*.”

Repair and Maintenance— General Comments: The change to these terms did not go far enough to help our Public Works Department do their job without costing excess time, money, and materials.

Visual subordination—[22]

The term “characteristic landscape” used in the definition needs to be removed. Additionally, the CRGC and USFS need to agree on one definition no matter how bad or good it is. Having two definitions is out of the question. It is also incorrect to use the word you are defining in its own definition.

Skamania County suggests the following definition:

Visually subordinate (visual subordination): *A visual quality objective that provides for the development or uses that may be evident but must remain secondary to and blend with the existing landscape using repetition of form, line, color, or texture common to the existing landscape, but*

changes in the development's qualities of size, amount, intensity, direction, pattern, etc., shall remain secondary to the existing landscape. The new development is not visually dominant in relation to their surrounding landscape.

Grammatical Errors

[Page I-31] Number 8—italicize “Handbook” in the first and second lines of the second paragraph. Additionally, every reference to the “Handbook” should be in italics.

[Page I-36] Number 4 is missing the word “than” in the second line where it states, “. . . natural landscape setting rather [than] with existing development.”

[Page I-39] Number 11(D)-- italicize “Scenic Resources Implementation Handbook” in the first line. Number 12-- italicize “Scenic Resources Implementation Handbook” in the last line. Number 13-- italicize “Scenic Resources Implementation Handbook” in the fourth/fifth line, “Implementation Handbook” in the seventh/eighth line, and “Implementation Handbook” in the last line.

[Page I-71: (5)] Is missing an “I” in the first word for “If”.

[Page I-88:] A space is needed between Number 2 and Number 3.

[Page I-88: (9)] There needs to be a reference number to the table on the next page and that table needs to include the reference number.

[Page I-90: (F)] The two locations that refer to “pp.” need to refer to page I-91.

[Page I-91] Starting at the “Practicable Alternative Test” section on Page I-91 and extending through page I-95, formatting needs to be corrected to match previous portions of the chapter. For example, “Practicable Alternative Test” needs to be (5) and “Mitigation Plan” (6).

[Page II-12] (1) The buffer zones table from the existing Management Plan is missing. (6) In the first line, “valiance” should be “variance”.

[Page II-13: (A) and Page II-26 (C)] At the top of the page, guideline “1E” should say “1H”.

[Page II-23: (D)] Typo in third line “development of *then* would” should be “development of *them* would”.

[Page II-28: (O)] The reference to guideline “1H” should say “1K”.

[Page II-33: 1(A)] The reference to guideline “1E” should say “1H”.

[Page II-40: L(2)] The font size needs to be fixed.

[Page II-42: (4)] The sentence has a grammatical error, “recommended be required” needs to be corrected to say “recommended *to* be required”.

[Page II-45: f(ii)] The reference in the fifth line to guideline “1.W” should say “1.X”.

[Page II-46: 5(b)] The reference in the last line to guideline “4.f” should say “in Review Uses 1.X.(4)(f)”.

[Page II-59: F(2)(a)] The font size needs to be fixed.

[Page II-70] Under “Review Uses”, 1) the language needs to be clarified, “The following uses may be allowed ~~subject~~ on lands designated Residential *subject* to review...”.

[Page II-71: L] In the last line the font size needs to be fixed.

[Page II-77] A space is needed between 7 and 8.

[Page II-103: (2)] In the fourth line, the word “the” should be added as follows “one year of the date, *the* use...”.

[Page II-105: (4)] The first line of the text needs the font size fixed.

[Page II-108: 1(A)] A period is needed at the end of the sentence.

[Page II-119: Q(3)] The font size needs to be fixed.

[Page II-119: (R)] Put an “h” before “ome” in first line.

[Page II-141: (2)] Under “SMA Policies” needs the font size fixed.

[Glossary: Page 9] A space is needed between top two definitions (“foreground” and “forest health”)

[Glossary: Page 9] Wetlands: At the beginning of the second line the word “requency” should be “[f]requency”.

[Glossary: Page 17] Repair: In the first line of the second paragraph, instead of “reproofing” it should probably be “re-roofing”.

General Clean Up Tasks

- Redundancy of provisions throughout the document is very frustrating. All efforts should be made to consolidate language provisions into the general policies and guidelines section and to remove the minor difference in text language between the SMA and GMA provisions.
- The same font type and size should be used throughout the document unless a larger size is used in headings.
- *The Scenic Resources Implementation Handbook* is cited many different ways throughout the Management Plan in both the GMA and the SMA sections. Please do a word find and make the text consistent in the document.

Issues not included in the Draft Revised Management Plan but need to be revisited prior to adoption

- Agri-tourism activities - These activities could provide gorge farmers the ability to maximize the profits of their agricultural operation while maintaining and protecting the agricultural use of the land. Agri-tourism is becoming an important subordinate use as family farms in the Northwest are rapidly declining. Income from agri-tourism activities can keep small, family farms in business when the farms are under economic pressures to close down or sell off portions of the farm. Agri-tourism activities on established agriculture farms, orchards, and ranches would be consistent with other tourism or recreational activities in the National Scenic Area. Many agri-tourism events would be of the same scale or smaller than “nonprofit, environmental learning or research facilities” and would allow the property owner to potentially profit from the activities to assist in the maintenance and protection of the agricultural use of the land.

Skamania County recommends two options to include agri-tourism in the Revised Management Plan. The first option is the preferred alternative.

Option 1: Add the following glossary definition of agri-tourism and the following text language as a use allowed without review in all Agricultural Land Designations (SMA and GMA).

Glossary

Agri-tourism: The act of visiting an existing farm or agricultural business to be involved in activities that may include but are not limited to, farm tours, day camps, hands-on chores, self-harvesting of produce, and/or hay rides.

Add to uses allowed without review page II-5 new number 2 and page II-15 new number 2.

2. Agri-tourism related activities on an existing farm, orchard, or ranch, provided that agri-tourism will be limited to activities based on products grown primarily on the subject farm and sized to the subject operation.

Option 2: Add the following glossary definition of agri-tourism and the following text language to Review Uses in all Agricultural Land Designations (SMA and GMA).

Glossary

Agri-tourism: The act of visiting an existing farm or agricultural business to be involved in activities that may include but are not limited to, farm tours, day camps, hands-on chores, self-harvesting of produce, and/or hay rides.

Add to Agricultural Land, page II-12, Review Uses (2)(Q) and page II-20, Review Uses (BB).

Agri Tourism related activities on an existing farm, orchard, or ranch, subject to compliance with the following conditions and scenic, cultural, natural and recreation resources guidelines:

1. The use must be in conjunction with an existing agricultural farm, orchard, or ranch.
 2. The owner of the subject parcel shall operate and manage the use.
 3. All parking shall occur on the subject parcel and be screened from key viewing areas to the maximum extent possible.
 4. The use may be allowed upon demonstration that the following conditions exist to protect any nearby agricultural and forest operations:
 - a. The use would not force a change in or increase the cost of accepted agricultural practices on surrounding lands. [GMA Guideline 1.N(1), page II-10]
 - b. The use would be set back from any abutting parcel designated Large-Scale or Small-Scale Agriculture, as required in "Agricultural Buffer Zones," or designated Commercial Forest Land or Large or Small Woodland, as required in the "Siting of Dwellings on Forest Land." [GMA Guideline 1.N(3), page II-11]
 - c. A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland. [GMA Guideline 1.N(4), page II-11]
 - d. All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland that is within 500 feet of the perimeter of the subject parcel on which the use is proposed to be located have been notified and given at least 10 days to comment prior to a decision. [GMA Guideline 1.N(5), page II-11]
 5. Counties may impose additional requirements to address potential impacts to surrounding neighbors. For example; they may limit noise, lighting and operating hours.
 6. Land use approvals for agricultural tourism shall not be valid for more than two years. Landowners must reapply for the use after a land use approval expires.
- Weddings, receptions, parties and other small-scale gatherings – On July 22, 2004 the Gorge Commission decided in a six to four vote to take no action on commercial events within the Scenic Area. Due to the declining profits of orchards and farmland in Washington State, especially small-farms, Skamania County disagrees with the Gorge Commission's decision to take no action on allowing weddings, receptions, and small-scale events within the National Scenic Area. The Gorge Commission/Forest Service staff's sample provisions dated June 19, 2003 are a good basis that would allow low-impact economic development

and allow counties to impose additional requirements to make the use compatible with the surrounding neighborhood. **The following should be listed as a review use in the GMA except on lands designated Open Space and Commercial Forest:**

Weddings, receptions, parties, and other small-scale gatherings subject to compliance with the following conditions and scenic, cultural, natural and recreation resources guidelines:

1. The use must be in conjunction with an approved winery, bed and breakfast inn, or commercial farm operation.
2. The owner of the subject parcel shall operate and manage the use.
3. A single event shall host no more than 100 people.
4. The use shall comply with the following parking requirements:
 - a. A single event shall not include more than 50 vehicles.
 - b. All parking shall occur on the subject parcel.
 - c. At least 200 square feet of parking space shall be required for each vehicle.
 - d. Parking areas may be developed using paving blocks, gravel, or other pervious surfaces; asphalt, concrete and other imperious materials shall be prohibited.
 - e. Parking areas shall be fully screened from Key Viewing Areas.
5. The owner of the subject parcel may conduct 18 single events up to one day in length per year.
6. The owner of the subject parcel shall notify all owners of land within 500 feet of the perimeter of the subject parcel of each planned event. The notice shall be in writing and shall be mailed seven calendar days before an event.
7. Tents, canopies, portable restrooms and other similar temporary structures necessary for a commercial event may be allowed, provided all such structures are erected or placed on the subject parcel no more than two days before the event and removed no more than two days after the event.
8. The use may be allowed upon demonstration that the following conditions exist to protect any nearby agricultural and forest operations:
 - a. The use would not force a change in or increase the cost of accepted agricultural practices on surrounding lands. [GMA Guideline 1.N(1), page II-10]
 - b. The use would be set back from any abutting parcel designated Large-Scale or Small-Scale Agriculture, as required in "Agricultural Buffer Zones," or designated Commercial Forest Land or Large or Small Woodland, as required in the "Siting of Dwellings on Forest Land." [GMA Guideline 1.N(3), page II-11]
 - c. A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-Scale or Small-Scale

Agriculture, Commercial Forest Land, or Large or Small Woodland. [GMA Guideline 1.N(4), page II-11]

- d. All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland that is within 500 feet of the perimeter of the subject parcel on which the use is proposed to be located have been notified and given at least 10 days to comment prior to a decision. [GMA Guideline 1.N(5), page II-11]
9. Counties may impose additional requirements to address potential impacts to surrounding neighbors. For example; they may limit noise, lighting and operating hours.
 10. Land use approvals for events shall not be valid for more than two years. Landowners must reapply for the use after a land use approval expires.
- Cumulative Effects— Analysis of cumulative effects is not feasible on an application to application basis. It presents the problem of “capping-out” and seeing your neighbor get a house while you cannot because the “cumulative line” was drawn. Zoning addresses cumulative effects by making allowed/review uses. For example; the area along the Underwood Bluff with 20-acre zoning does not present a cumulative effects problem.

[Page I-6: (3)] This was proposed to be removed from the Management Plan by the Scenic Resources Committee. This is a useless criterion and should not be found in a guideline. It is appropriate for a policy in the land use designations, but it is not a performance criterion that can be administered in the guidelines. Cumulative effects are determined by the land use designation as to density and other criteria like capping accessory structures. The size limit on accessory structures will reduce the cumulative impact of cluttering up the landscape with too many big shop buildings. Alternatively, having a planner make a case by case determination of the cumulative effect of the proposal and like proposals is too subjective and is an inappropriate criterion to be administered case by case. Cumulative effects is a big picture, comprehensive, planning tool and not a day-to-day, current planning tool.

- Grading Plan— [Page I-10: (25)] This is where a requirement that a qualified professional completes the grading plan needs to be stated. Additionally, there is no grading plan required in the SMA, only in the GMA. If grading plans are required in the GMA they should also be required in the SMA.
- Cluster developments— This was placed on the long-term list, however all that was needed was clarification of the guidelines. This is something already allowed in the Management Plan and the target of numerous NSA appeals. The Gorge Commission stated when it began the Plan Review Process that the highest priority issues would be to “fix” issues that were subject to many appeals. Skamania County has prepared the following text for this section of the Management Plan:

DEFINITION: Conservation Design – The division of a parcel of land, or contiguous parcels of land so as to permanently preserve at least 75% of the subject land as conservation area.

D. CONSERVATION DESIGN STANDARDS (GMA only).

1. Where authorized, land division in the General Management Areas may create parcels smaller than the designated minimum size to preserve and/or enhance open space, agricultural and forest land or other natural, cultural and recreational resources. Only the land division and a maximum of a one acre building envelope per lot would be approved through this process, the actual structures would need to get separate National Scenic Area approval. The approval of the Conservation Design will result in a building envelope site plan. All future buildings shall be located within the designated building envelope.
2. Approval of conservation designs shall be contingent upon submission of the following information in addition to the standard National Scenic Area application:
 - a) The applicant will need to submit a minimum of four site plans which will represent the process used to choose the location of the proposed conservation design lots.
 - (i) The first map will be a conceptual site plan for the proposed conservation design showing the subject property's existing development and characteristics, including agricultural, forest, scenic, recreational, cultural and natural features as the base of the site plan. This first map would designate the portion of the property to be permanently undeveloped. Examples of conservation areas could be areas that:
 - Avoid areas of high visibility from key viewing areas.
 - Protect significant landscape features and the existing character of the landscape setting.
 - Reduce interference with the movement of deer or elk winter range.
 - Avoid areas of known cultural resources.
 - Reduce adverse effects upon riparian areas, wetlands, natural areas, rare plants, sensitive wildlife sites or other natural resources.
 - Are used for agricultural or forest management on the conservation area left by the proposed land division.
 - (ii) The second site would continue to show everything contained in the first plan, as well as the locations of the one acre building envelope per lot to be created.
 - (iii) The third site plan would contain all information shown in the first two site plans as well as the location of all access roads, potential septic systems and utilities.
 - (iv) The fourth and final site plan would contain all the information from the first three site plans as well as showing the new lot lines. The site plan would also have to meet the criteria outlined in §22.06.020(B)(i), which

lists the requirements for site plans submitted as part of a National Scenic Area application. This site plan may be completed by the applicant, a surveyor, planning consultant or engineer.

- b) Prior to the sale of the lot, a final site plan shall be submitted which has been prepared by a Washington licensed, professional land surveyor. The final site plan of the Conservation Design must comply with all local government land division codes.
 - c) A cultural and a natural resources survey prepared by a qualified professional with expertise in a said resource area. See Part I, Chapters 2 and 3 of the National Scenic Area Management Plan.
3. Following the recording of a conservation design, no further division of any resulting parcel for residential purposes shall be allowed until the subject parcel is included within the boundary of an Urban Area.
 4. The presence of an existing structure on the parent parcel does not disqualify the property from being considered for a conservation design.
 5. No parcel in a conservation design may be smaller than one acre in a 5-acre Residential designation or 10-acre Residential designation or two acres in a Small-Scale Agriculture designation or Small Woodland designation.
 6. The standard Agriculture and Forest Buffers would not apply to the newly created residential parcels, but would instead apply to the boundary of the parent parcel and the buffer, if applicable, shall be shown on the recorded drawings.
 7. At least 75 percent of land subject to a conservation design shall be permanently protected as undeveloped land. The local government shall ensure permanent protection of open areas created by conservation design.
 8. Contiguous parcels in the same ownership or in separate ownerships may be consolidated and re-divided to take advantage of conservation design provisions.

Thank you again for your consideration and the opportunity to work as partner agencies in the Management Plan review and update process. We hope you will fully consider all of the Gorge Counties recommendations before you make a final decision on the Revised Management Plan.

Sincerely,



L.W. "Bud" Quinn, Acting Chairman,
Skamania County
Board of County Commissioners

cc: Martha Bennett, Executive Director, Columbia River Gorge Commission
Skamania County Department of Planning & Community Development
Skamania County Prosecutor
Klickitat County Commissioners
Clark County Commissioners
Multnomah County Commissioners
Hood River County Commissioners
Wasco County Commissioners
Senator Jim Honeyford
Representative Dan Newhouse
Representative Bruce Chandler
Dee Caputo, CTED

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: February 17, 2004

Agenda Item #: B-2

Est. Start Time: 10:20 AM

Date Submitted: 02/11/04

Requested Date: February 17, 2004

Time Requested: 10:20 to 12:00

Department: MCSO

Division: Executive

Contact/s: Christine Kirk

Phone: 503 988-4301

Ext.: 84301

I/O Address: 503/350/kirk

Presenters: Sheriff Giusto, Christine Kirk, Lt Heidenrich and others

Agenda Title: Board Work Session, Understanding Options for the Wapato Correctional Facility for FY 04/05

**NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title.
For all other submissions, provide clearly written title.**

- 1. What action are you requesting from the Board? What is the department/agency recommendation?** An opportunity for the Board to learn of the options for Wapato in FY 04/05, provide input on risks and benefits, learn of decision points for future years, and hear the Sheriff Office recommendations to the Board for FY 04/05. Key factors in the recommendation will be bed loss, budget shortfall, and safety risks associated with opening Wapato.

- 2. Please provide sufficient background information for the Board and the public to understand this issue.** Wapato was built with the plan to ask voters to provide operating revenues. Since a levy has not gone out to the voters, the only options for operating Wapato for FY 04/05 are to do so within existing resources. A MCSO Jail operations team came together to plan how we would open Wapato with existing resources. Since that time, due to the failure of BM 30 and GF constraint, the resources that were available are no longer. Sheriff Giusto will review with the Board what the plan to open looked like and even with the existing resources at that time, there was a net loss of 131 beds, and the approximately 1.3 million dollar increased cost due to facilities cost for a new building.

3. **Explain the fiscal impact (current year and ongoing).** The costs of opening Wapato will be reviewed with the Board and are as mentioned above. There are costs of leaving Wapato unopened, due to security, maintenance, water, electricity, and other items such as asset preservation that we will review with the Board.

NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet. None

If a budget modification, explain:

- ❖ **What revenue is being changed and why?**
- ❖ **What budgets are increased/decreased?**
- ❖ **What do the changes accomplish?**
- ❖ **Do any personnel actions result from this budget modification? Explain.**
- ❖ **Is the revenue one-time-only in nature?**
- ❖ **If a grant, what period does the grant cover?**
- ❖ **When the grant expires, what are funding plans?**

NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)

If a contingency request, explain:

- ❖ **Why was the expenditure not included in the annual budget process?**
- ❖ **What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?**
- ❖ **Why are no other department/agency fund sources available?**
- ❖ **Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.**
- ❖ **Has this request been made before? When? What was the outcome?**

If grant application/notice of intent, explain:

- ❖ **Who is the granting agency?**
- ❖ **Specify grant requirements and goals.**
- ❖ **Explain grant funding detail – is this a one time only or long term commitment?**
- ❖ **What are the estimated filing timelines?**
- ❖ **If a grant, what period does the grant cover?**
- ❖ **When the grant expires, what are funding plans?**
- ❖ **How will the county indirect and departmental overhead costs be covered?**

4. **Explain any legal and/or policy issues involved.** The land use permit issues will be presented to understand vacancy and use limitations. Other policy issues have to do with the completion of the building and use of bond funds, and not using the facility and options for other partners in the use of the facility in the future.
5. **Explain any citizen and/or other government participation that has or will take place.**

Required Signatures:

Department/Agency Director:



Date: 2-11-04

BOGSTAD Deborah L

From: CARROLL Mary P
Sent: Friday, February 13, 2004 5:03 PM
To: LINN Diane M; ROJO DE STEFFEY Maria; NAITO Lisa H; ROBERTS Lonnie J
Cc: TURNER Kathy G; BOGSTAD Deborah L
Subject: Wapato Briefing

Serena asked me to let you know that due to a death in her family, she will have to miss the Tuesday briefing on Wapato. Kathy Turner will ask Deb to tape the briefing so that Serena can listen to it when she returns next week.

One point that Serena would like to share prior to the briefing is that we continue to maintain good communication with the N Portland neighborhood and that we follow through on the commitments made to them.

Mary Carroll
Executive Assistant
Commissioner Serena Cruz
501 SE Hawthorne Blvd. Suite 600
Portland OR 97214
(503)988-5275 phn (503)988-5440 fax
mary.p.carroll@co.multnomah.or.us



MULTNOMAH COUNTY SHERIFF'S OFFICE
501 SE HAWTHORNE BLVD., SUITE 350 • PORTLAND, OR 97214

Exemplary service for a safe, livable community

BERNIE GIUSTO
SHERIFF

503 988-4300 PHONE
503 988-4500 TTY
www.sheriff-mcso.org

Wapato Permits FAQ

The following Frequently Asked Questions relate to the Conditional Use Permit and Certificate of Inspection for the Wapato facility. Sources used herein are abbreviated as follows:

LUR = *Findings of Fact and Conclusions of Law* (LUR No. 00-00554 CU) issued by the Portland City Council on January 10, 2001.

Portland City Code sections are cited by their section (§) number.

What are the primary uses of the Wapato facility? (LUR Exhibit A.5)

The Primary Uses are:

- Jail
- Secure residential treatment program
- Secure detention for federal detainees

What kind of prisoners may be housed at Wapato? (LUR page 2)

“Operationally, the jail will house persons in custody awaiting trial, offenders awaiting sentencing, sentenced offenders (both county and state), as well as those detained by the United States Marshall’s Service and United States Immigration and Naturalization Service. The typical inmate stay at this facility will be short, with stays ranging from one day to one year.”

When does a land use approval expire? (§ 33.730.130)

Unless specified otherwise in an approval, land use approvals (such as Wapato) expire under any of the following circumstances:

1. If within 3 years of the date of the final decision a building permit has not been issued for approved development; or
2. If within 3 years of the date of the final decision the approved activity has not commenced.

(Note: A building permit has been issued for Wapato, and LUR 00-00554 CU does not contain a specified expiration date.)

Are land use approval rights transferable? (§33.700.100)

Yes. Approvals of quasi-judicial land use reviews run with the land and are transferred with ownership. Any conditions, time limits, or restrictions apply to all subsequent operators.

What is a Certificate of Inspection? (§31.90.040)

Each occupancy in a commercial building shall have a Certificate of Inspection (formerly Certificate of Occupancy), which is issued by the Fire Marshall upon a finding that the occupancy satisfies the fire regulations in the case of periodic or requested inspection.

How long is a Certificate of Inspection valid? (§31.90.040)

The Certificate of Inspection shall be valid until a subsequent inspection or review or until it is revoked.

Is the Certificate of Inspection transferable? (§31.90.040)

No. The Certificate of Inspection is issued to the business owner for the existing use at the location specified in the Certificate. It is not transferable.

Does a change in use invalidate a Certificate of Inspection? (§31.90.050)

Yes. Any change of use from the Building Code classification recorded on the Certificate of Inspection or addition of uses outside the approved Uniform Building Code classification in an existing occupancy shall invalidate the Certificate of Inspection. A new inspection shall be required.

(Note: A change in use may also affect an existing land use approval, prompting a Reconsideration of Land Use Approvals under § 33.700.040.)

MULTNOMAH COUNTY OREGON
\$79,700,000 PUBLIC SAFETY BOND ISSUE OCTOBER 1996

INITIAL BOND ISSUE ALLOCATION:

Bond Technology	\$ 7,500,000
Inverness Jail	11,500,000
New Jail	30,730,000
A&D Beds	13,150,000
Children's Receiving Center	4,000,000
Juvenile Justice Complex	7,400,000
Courthouse, Justice Center, transition Housing	4,485,000
Issue Costs	935,000
Total Issue	<u>79,700,000</u>
Interest Earned through January 31, 2004 (net of arbitrage)	18,764,384
Misc Refunds added back to projects	210,380
Total Available	<u><u>98,674,764</u></u>

Interest Earned	18,764,384
Interest Allocated by the Board:	
Wapato Jail	(3,000,000)
Bond Technology	(1,128,981)
Children's Receiving Center	(5,075,239)
MCDC Booking Facility	(3,348,344)
Laundry Equipment Inverness Jail	(338,606)
MCDC Detention Electronics	(1,291,600)
IBM Mainframe Transition	(1,662,976)
Juvenile Justice Letter of Credit Costs	(120,393)
Transitional Housing	(1,975,075)
Bond Administration Cost	(889,790)
Balance of Interest Available	<u>(66,620)</u>
Estimated interest earned through June 30, 2004	<u>66,620</u>
	<u><u>-</u></u>

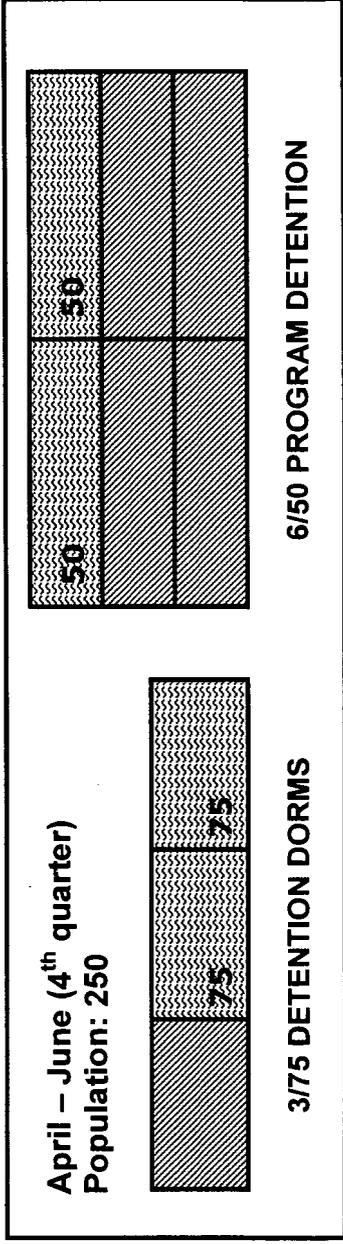
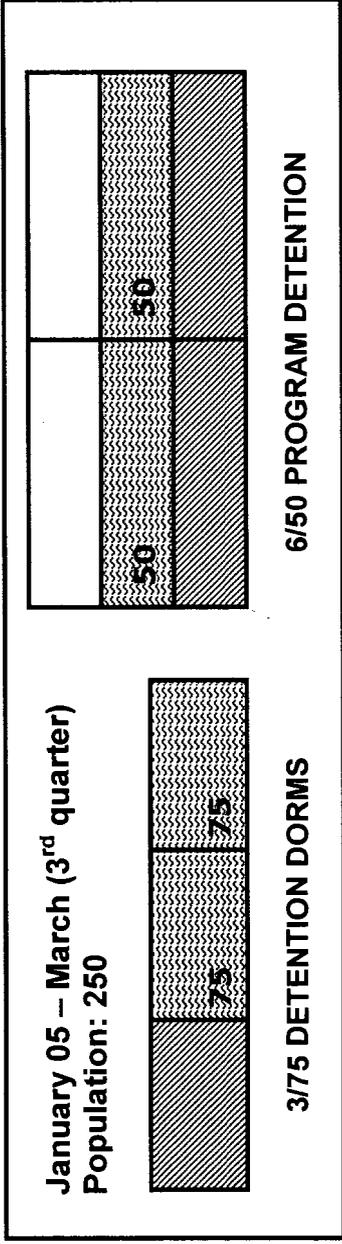
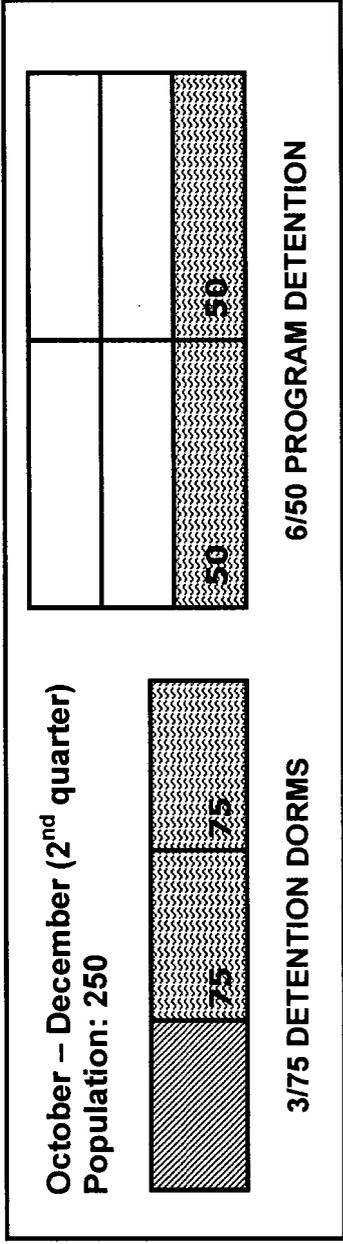
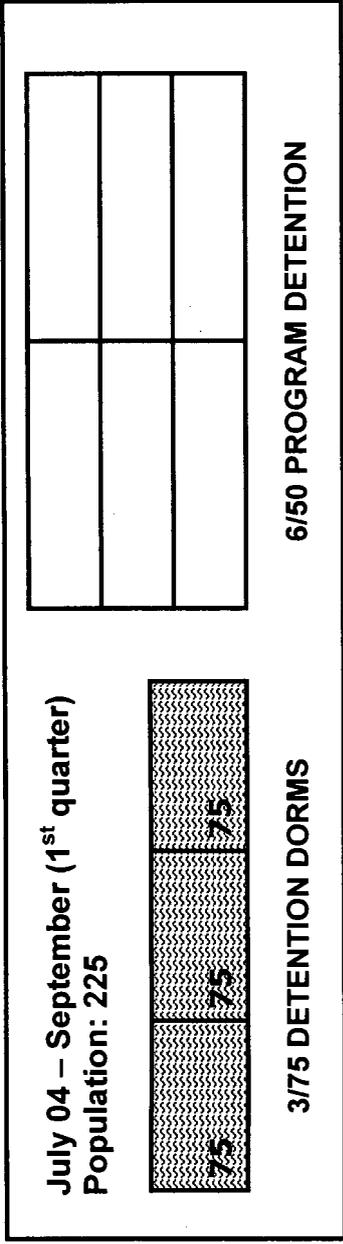
Wapato Jail (All Board Approved)

Jail Bond Funds	\$ 30,730,000
A & D Bond Funds	13,150,000
SB 1145 Funds	10,845,000
SB 1145 Funds Not used at Inverness Jail	873,061
Misc refunds	22,195
Funds transferred to Booking facility	(1,163,438)
Funds transferred from Booking facility	970,877
Funds transferred from interest	3,000,000
Total Available for Wapato	<u>58,427,695</u>

Funds expended 1996 thru Feb 11, 2004	<u>(46,139,588)</u>
Committed Funds Remaining February 11, 2004	<u>12,288,107</u>
Uncommitted Funds (including interest)	<u>0</u>



WAPATO FACILITY
WARRANTY PERIOD – OPERATIONAL SEQUENCING
Facility Cross-section of Detention Areas
November 30, 2003





WAPATO FACILITY
 Preliminary "Mothball" Cost Analysis
 February 17, 2004

DRAFT



FUNCTION	"MOTHBALLED" ESTIMATE	% of 250 BED OPERATION \$'s
Facility Maintenance:		
▪ Warranty maintenance & Facility maintenance, generally (includes janitorial and landscaping)	\$190k	45%
▪ Utilities	\$130k	32%
▪ Asset Preservation	(\$260K?)	100%?
▪ DBCS Indirect	(\$70k?)	100%?
▪ Building Manager w/ associated M/S	\$150k	100%
Maintenance Totals	\$.800m	
Facility Security 24/7		
▪ (5.46) FSO's @ \$48k, plus equipment costs	\$262k	
Mothballed Total	\$1.06m	

Asset Preservation and Indirect Charges: \$ 330k or 41% of Mothball Maintenance Budget.

The "250 Bed Plan" used as a comparison due to it being the most current and developed operationally.

"Mothballed" strategies:

1. Minimum routine/warranty related maintenance conducted.
2. Janitorial once monthly – general cleaning.
3. Landscaping primarily focused on maintaining permit/environmental obligations – 2 days weekly
4. Minimal heating/cooling. Anticipate running HVAC systems on "full" during a 2-week peak period in August and January.
5. Interior lighting maintained at "nightlight" levels 24 hours a day, full exterior lighting when dark.



MULTNOMAH COUNTY WAPATO FACILITY Good Neighbor Agreement

February 2004



This "Good Neighbor Agreement" for the Wapato Facility outlines steps the Multnomah County Sheriff's Office will take in operating the facility maintaining productive relationships with facility's neighbors, adjacent natural resources, and the broader community. Parties to the agreement are Multnomah County and the Multnomah County Sheriff's Office and the Citizens Working Group, representing the many interested citizens and other stakeholders for the Wapato site.

This agreement is effective upon completion of the Wapato Facility, and continues as amended until supplanted by a new agreement.

This Good Neighbor Agreement includes the operational guidelines specified in the approved City of Portland's Conditional Use Permit for the Wapato Facility.

FACILITY SECURITY AND USES

- 1) The Multnomah County Sheriff's Office will not book inmates into custody nor release inmates from custody at the Wapato Facility.
- 2) Multnomah County will follow the approved security plan for the Wapato Facility. (see Attachment "A")
- 3) Only those uses listed in the facility's Conditional Use Permit are permitted. (see Attachment "B")

FACILITY APPEARANCE/MAINTENANCE

- 4) The Wapato Facility's appearance will continue to be unobtrusive, compatible with its industrial and natural resource surroundings, complying with Portland City Code, the version of the Port of Portland's Rivergate Development Standards attached to the property deed, and adopted design.
 - a. Multnomah County will continue to maintain the Wapato Facility environmental buffer to provide a permanent visual buffer between the facility and the Port of Portland's mitigation area and the Smith & Bybee Lakes management area.

- b. The County will operate the facility to minimize noise and light beyond the facility's boundaries.

TRANSPORTATION

- 5) The County's transport vehicles – buses, vans, service vehicles and cars – and construction vehicles will not access the Wapato Facility site via neighborhood streets, defined as those south of North Columbia Boulevard, except in the case of an emergency. The Sheriff's Office will also strongly encourage vendors servicing the site to adhere to the same consideration.
- 6) The County will provide bicycle parking for staff and visitors.

COMMUNITY BENEFITS

- 7) When resources are available in the Wapato Facility operational plan, in coordination and collaboration with Metro's Wildlife Area Manager and the Port of Portland's Natural Resource Manager, the Multnomah County Sheriff's Office will make available inmate work crews for environmentally beneficial projects in the adjacent natural resource areas adjacent to Smith & Bybee Lakes.
- 8) The Wapato Facility will provide limited access to the adjacent natural resource areas, with the approval of the Port of Portland and Metro site managers, and facilitated by the facility commander. Public parking will be available on the Wapato Facility site to accommodate access.
- 9) The Wapato Facility will offer its community meeting room for public meetings by schedule and subject to existing Multnomah County Sheriff's Office procedures, when meetings will not have an adverse effect on the Facility's operations and security.
- 10) The Multnomah County Sheriff's Office will conduct scheduled tours of the Wapato Facility for interested citizens, subject to Multnomah County Sheriff's Office procedures for safety and security clearances for access of detention areas in operating facilities.

COMMUNITY OBLIGATIONS

- 11) Community members or other stakeholders are obligated to contact the facility commander, either by email or telephone, if concerns arise regarding the Sheriff's Office compliance with this agreement. Any concerns should be expressed as contemporarily as possible to allow the best review, response, and action when appropriate.

- 12) Within the context of this agreement, community members or other stakeholders should contact the facility commander to request services in the community or natural resource areas.

COMMUNICATIONS WITH COMMUNITY

- 13) The Multnomah County Sheriff's Office's community contact person for the Wapato Facility will be the facility commander. The Sheriff's Office will provide his or her name and telephone number to citizens to contact for questions about the facility's operations or the County's compliance with the Good Neighbor Agreement.
- 14) The Multnomah County Sheriff's Office will provide annual updates on Wapato Facility operations, which will be available on the Sheriff's Office Website (www.mcso.us) along with this Good Neighbor Agreement. The website will provide a link to the facility commander's email to facilitate community input and comment.
- 15) The Wapato Facility commander will contact and consult with Metro and the Port of Portland if repairs or restoration are required in the environmental buffer adjacent to the Port of Portland's mitigation area and the natural resource management area.
- 16) For future development on the Wapato site, Multnomah County will notify citizens and recognized neighborhood and business district associations, environmental and other interested groups, seeking views to ensure designs are compatible with adjacent industrial uses and natural areas.

The Multnomah County Sheriff's Office is committed to adhering to the principles and values represented in this agreement. The Sheriff's Office staff at the Wapato Facility look forward to an ongoing positive relationship with the surrounding community and continuing to be partners in the stewardship of the natural resources adjacent to the facility.

ATTACHMENT "A" - "SECURITY PLAN" CONTENT - CUP Exhibit A4

CENTRAL BOOKING

- The booking of 'arrestees' will not occur at the Wapato Facility.

TRANSPORT

- All transporting of inmates or program clients to and from the facility will be completed by Sheriff's Deputies.
- All movement in and out of the facility will occur through the secure vehicle sally port.
 - Inmates
 - Will be in institutional clothing
 - Travel in secure vehicles
 - Wear restraints
 - Program Clients
 - Will be in institutional clothing
 - Travel in secure vehicles

FACILITY SECURITY

- 24 hour / 7 day per week perimeter security by Sheriff's Office
- Both interior and exterior of facility monitored
- All ingress and egress controlled
- Recreation areas secured and screened from the public
- All visitors screened through metal detector before entering facility
- Lobby and waiting areas monitored
- All visits monitored
- All parking areas monitored
- "Booking" and "Release" occur at other location(s)
- A drug dog used to search jail and program areas
- Inmate behavior/activities monitored, structured, and directed by Sheriff's Deputies.

(Attachment "A" continued)

BUILDING DESIGN PARAMETERS

Building designed and constructed to established criteria for medium security facilities:

- Building shell provides secure perimeter
- Size and location of windows prevent escape
- Hard ceilings (i.e., concrete and/or plaster) in living units
- Dormitory-style housing
- Group recreation areas
- Never less than two locked doors or barriers between inmate/program client housing units and outside
- Housing areas separate from administrative or staff-only areas
- Centrally controlled, limited points of ingress and egress
- Sight lines promote surveillance of inmates / program clients
- Building fully protected by fire sprinklers
- Perimeter fence to secure facility
- Separate parking areas for employees and visitors
- Backup power supply to facility

ATTACHMENT "B" - "USES" CONTENT - CUP Exhibit A5

PRIMARY USES:

- Jail
- Secure residential treatment program
- Secure detention for federal detainees

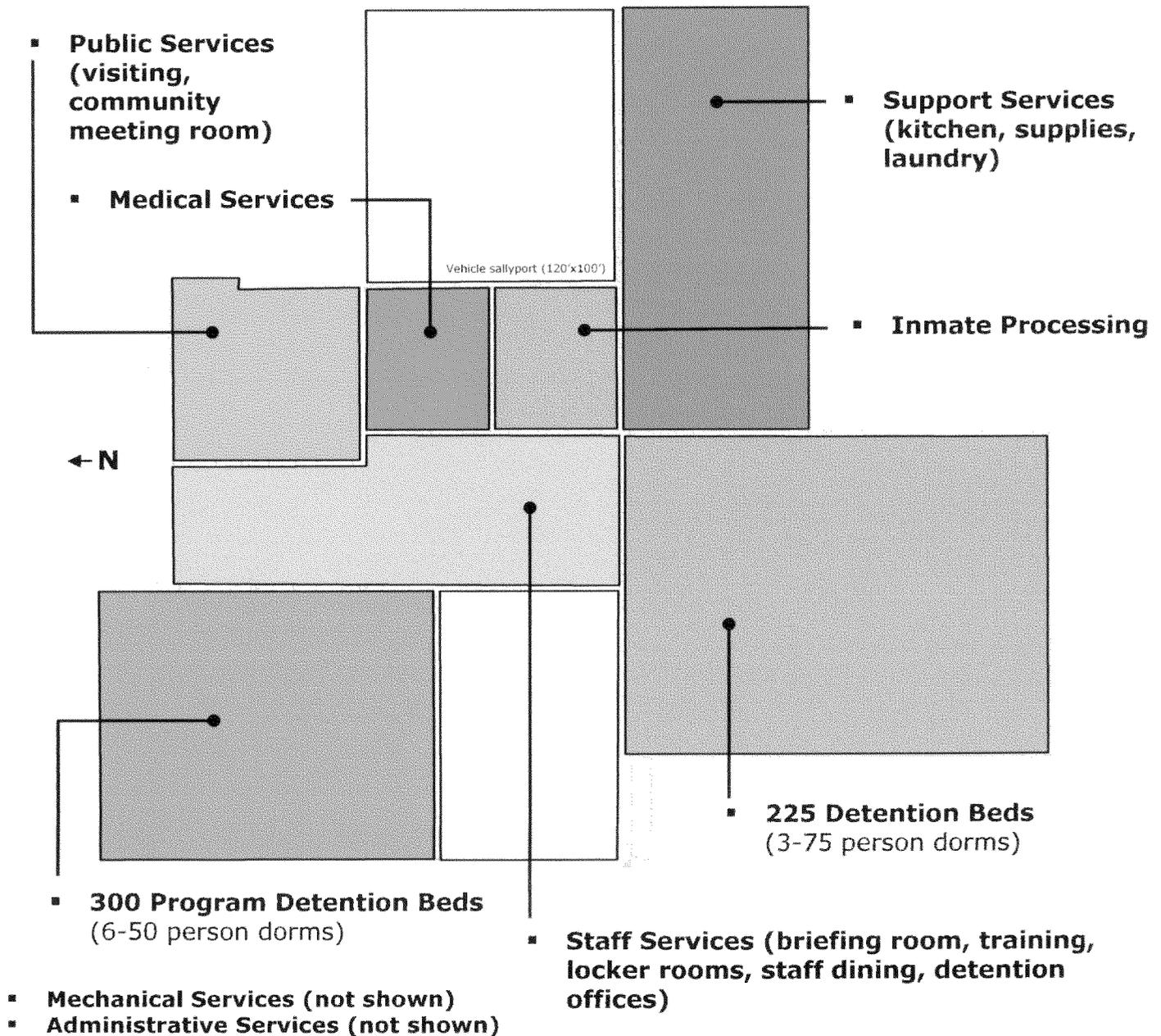
ACCESSORY USES / ACTIVITIES:

- Maintenance activities / facilities
- Utility corridors
- Indoor and outdoor storage
- Parking for official Multnomah County vehicles
- Parking for employees and visitors
- Public meeting room
- Medical clinic and health facilities
- Kennel
- Interpretive signage and displays for visitors
- Public art
- Administrative officer for Multnomah County corrections and treatment specialists
- Facilities for public meetings, tours, and related public education activities
- Wildlife interpretation – trail(s), observation point(s), signage



MULTNOMAH COUNTY WAPATO FACILITY

May 2003



BOGSTAD Deborah L

From: BOYER Dave A
Sent: Friday, February 20, 2004 9:17 AM
To: #ALL CHAIR'S OFFICE; #ALL DISTRICT 1; #ALL DISTRICT 2; #ALL DISTRICT 3; #ALL DISTRICT 4; SHERIFF; SCHRUNK Michael D; BOGSTAD Deborah L
Cc: MARCY Scott; AAB Larry A; KIRK Christine A; BUTLER Douglas E; YANTIS Wanda; THOMAS Bob C; #BUDGET; MATTIODA Gina M; SODEN Stephanie A; HARRIS Mindy L; MORTON Harry S; MOUNTS Tony D; YEO Lisa
Subject: Public Safety Bond Fund Status

Attached is a summary of the Public Safety Bond Fund project status and use of interest. I have highlighted the original bond projects in yellow and have numbered them so that they can be followed to the individual projects summarized below the interest uses. The format is similar to the Wapato Jail spreadsheet provided to you at Tuesday's briefing but has been expanded to include all of the projects and Board action through the FY 2003/2004 budget. We have three major projects left to complete; The Wapato Jail (\$12.3 million), The Justice Center Detention Electronics (\$3.6 million) and IBM Mainframe Migration. The mainframe migration has \$1.5 million committed but an issue has surfaced that is being researched to determine what action should be recommended to the Board and Sheriff. I have also attached a document that was sent to the Board in September 1999 that explains the use of interest and the status of the Bond Fund at that time. Since that time all changes to project budgets have been brought to the Board during the annual budget process to be included in the adopted budgets.

All of the Bond interest has been used on projects approved by the voters. The following is the Ballot Title in Measure 26-4 approved by the voters in May 1996.

BALLOT TITLE:**BONDS TO EXPAND ADULT, JUVENILE CORRECTIONS FACILITIES; IMPROVEME CRIMINAL TRACKING**

Question: Shall Multnomah County build jails, booking and corrections facilities; strengthen criminal tracking, by issuing \$79.7 million in General Obligation Bonds?

If bonds are approved, they will be payable from taxes on property not subject to the limits of section 11b, Article XI of the Oregon Constitution.

SUMMARY: Bonds used for:

- Ending early unsupervised release of prisoners by constructing, expanding jails, acquiring land;
- Allowing police to quickly book suspects, return to patrol;
- Secure beds for mandatory substance abuse treatment for offenders;
- Restructuring computer systems of police, corrections, prosecutors, courts for tighter criminal tracking;
- Financing additional juvenile beds
- Facilities to assist abused children.

Measure authorizes up to \$79.7 million Multnomah County General Obligation bonds maturing in 30 years or less. Cost estimate: 18 cents per \$1,000 assessed value, about \$28 annually on typical home.

2/23/2004

Let me know if you have any questions.

Dave Boyer
Chief Financial Officer
501 SE Hawthorne Blvd 4th Floor
Portland, OR 97214
(503) 988-3903
e-mail dave.a.boyer@co.multnomah.or.us



MULTNOMAH COUNTY, OREGON

DEPARTMENT OF SUPPORT SERVICES
FINANCE DIVISION

COUNTY COMMISSIONERS

BEVERLY STEIN, CHAIR
DIANE LINN, DISTRICT #1

SERENA CRUZ, DISTRICT #2
LISA NAITO, DISTRICT #3
SHARRON KELLEY, DISTRICT #4

DIRECTORS OFFICE
ACCOUNTS PAYABLE

GENERAL LEDGER
PAYROLL
TREASURY
LAN ADMINISTRATION

PORTLAND BUILDING
1120 SW FIFTH AVENUE, SUITE
1430
PO BOX 14700
PORTLAND, OR 97293-0700
PHONE (503) 248-3312
FAX (503) 248-3292

CONTRACTS
MATERIEL
MANAGEMENT
PURCHASING

FORD BUILDING
2505 SE 11TH 1ST FLOOR

PORTLAND, OR 97202
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MEMORANDUM

TO: Board of County Commissioners

FROM: Dave Boyer, Finance Director

DATE: September 7, 1999

SUBJECT: Public Safety Bond Expenditures

On October 1, 1996 the County issued \$79,700,000 in Public Safety General Obligation Bonds. The projects being financed and the original budget estimates are:

Description	Amount
Bond Technology	\$ 7,500,000
Inverness Jail	11,500,000
New Jail	30,730,000
A & D Beds	13,150,000
Children's Receiving Center	4,000,000
Juvenile Justice Complex	7,400,000
Inverness jail Storage	385,000
Court House Jail	350,000
Court House Detention Electronics	500,000
Justice Center Detention	2,500,000
Justice Center Intake Booking	750,000
Issue costs	935,000
Total	<u>\$79,700,000</u>

IRS rule states that at the time of issuance, using the entity's best judgement at the time of issuance, that the entity would spend the proceeds within a three year time frame. Every effort needs to be taken to expend the bonds within three years from the date the bonds were issued, which in this case would be September 30, 1999. If for some reason an unforeseen problem arose or unanticipated delays occur because of technical problems, the expenditures can occur over a five year time period. It is the Finance Division's belief that the complexity surrounding the public safety organizations technology needs and jail and A & D facility siting issues are legitimate reasons to spend the funds over five years. If the funds are not expended over a five year period we will not incur a penalty or need to refund any of the bond proceeds. Because arbitrage earnings are realized, we will need to file with the IRS and rebate any interest earnings that exceed the interest rates on the bonds.

The County is allowed to spend the interest earned, (the amount not subject to rebate to the IRS), on any of the related projects being financed by the bonds. The Finance Director, through the Chair has authorization to approve the use of interest earnings. The practice that is being used is that the Chair informs the Board of any expenditure requests to see if there are any concerns, objections or other requests prior to making a commitment. We are estimating that the County will earn about \$12 million in interest before the proceeds are completely spent. About \$800,000 of this interest earnings has previously been committed for covering administrative and procurement cost, covering short term interest costs on the Juvenile Justice Complex and additional equipment needed at the Inverness Jail. Any remaining bond proceeds or interest earnings not used for the bond projects are to be used to pay the principle and interest on the bonds. The ballot title and explanatory statement did not include any budget numbers for specific projects. Because budgets were not included in the ballot or explanatory statement, interest earned can be expended on any project that was included in the bond measure.

The Inverness Jail, Juvenile Justice Complex, Inverness jail storage, Court House Jail, and Court House detention electronics projects have been completed or are near completion and the current budgets are adequate to cover outstanding expenses. The remaining projects have had delays due to siting issues or have had a change in scope. Facilities Management, working with the project sponsors have prepared revised budgets and have identified a need for additional funds. The revised budgets for the new jail and A&D beds, Justice Center Detention Electronics, Justice Center Booking and Bond Technology include inflationary and contingency dollars. Both Facilities Management and/or the project sponsors recommend that the additional amounts being requested be approved by the Board of Commissioners. The total amount being requested is about \$8.6 million. If the Board approves these requests the balance of interest earnings not authorized to be expended will be about \$2.6 million.