



MULTNOMAH COUNTY
LAND USE AND TRANSPORTATION PROGRAM
 1600 SE 190TH Avenue Portland, OR 97233
 PH: 503-988-3043 FAX: 503-988-3389
<http://www.co.multnomah.or.us/landuse>

NOTICE OF DECISION

This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

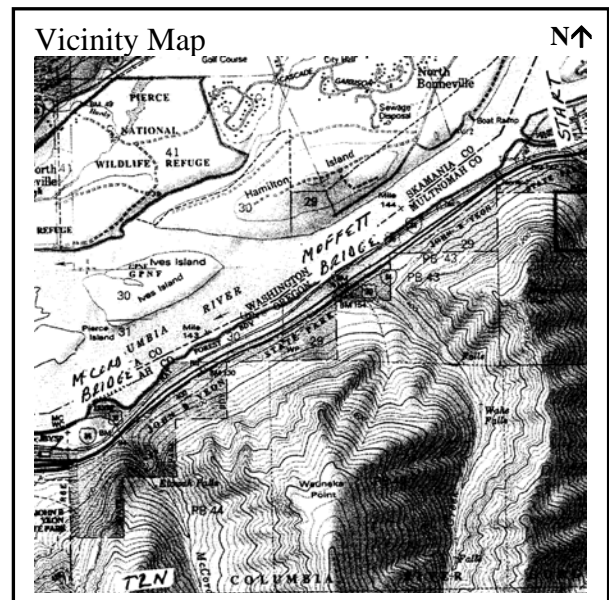
Case File: T2-06-115

Permit: NSA Scenic Area Site Review Permit

Location: Along Interstate Highway – 84 Right –
 of-Way between Bonneville to
 Warrendale
 T2N, R7E, Sec 28, 29, & 31 W.M

Applicant: John Morgan
 PO Box 308
 Cascade Locks, OR 97014

Owner: Oregon Department of Transportation
 Attn. Kristen Stallman
 123 NW Flanders
 Portland, OR 97203-4037



Summary: NSA Site Review Request to replace an overhead utility line with an underground system within the Interstate Highway – 84 Right-of-Way

Decision: Approved with Conditions

Unless appealed, this decision is effective June 6, 2007, at 4:30 PM.

Issued by:

By: _____
 George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: May 23, 2007

Opportunity to Review the Record: A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director's Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact George A. Plummer, Staff Planner at 503-988-3043 ext. 29152.

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 38.0640. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Columbia River Gorge Commission until all local appeals are exhausted.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is June 6, 2005 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): Multnomah County Code (MCC): MCC .38.0510-.0850 Administration and Procedures, MCC 38.2600 et. al: Gorge Special Open Space District, MCC 38.7000 et al: Site Review Approval Criteria

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at <http://www.co.multnomah.or.us/landuse>.

Scope of Approval

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. **Pursuant to MCC 38.0690, this land use permit expires two years from the date the decision is final if; (a) development action has not been initiated; (b) building permits have not been issued; or (c) final survey, plat, or other documents have not been recorded, as required. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 38.0690 and 38.0700. Such a request must be made prior to the expiration date of the permit.**

Conditions of Approval

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. To protect sensitive animal species, ground disturbance related to the project shall be limited to the time period between July 1st and March 31st in areas outside of sensitive buffer areas. In the sensitive buffer areas ground disturbance is limited to between August 15th and March 31st. Work associated with placement of the utility lines under the bridges shall be limited to between August 1st and March 31st. These work periods are outlined in ODFW letter included as Exhibit 3.3 [MCC 38.7075(K), (M), (O), (Z)(1) and (Z)(5)].

2. The mitigation plan for work within the stream and wetland buffer shall include the following:
 - The City of Cascade Locks shall retain five power poles identified in the mitigation plan along the project area on the north side of I-84 for raptor use. Each pole shall be marked with a permanent tag indicating the pole is for wildlife use and should not be removed without being replaced.
 - Noxious weeds such as English Ivy, Scott's Broom, Japanese Knotweed, Tansy Ragwort, and Himalayan Blackberry shall be removed from the right-of-way within the buffer areas shown in Exhibit 1.5, Buffer Mitigation Plan (Figures 3, 4, 5, and 6) of the streams and wetland located along the project, per Oregon Department of Fish and Wildlife request. To ensure that sensitive plant species are not harmed, prior to the noxious weed removal portion of this project, the City of Cascade Locks shall retain a botanist qualified to identify sensitive plant species of the Columbia River Gorge. This botanist shall identify and flag all sensitive plants in each buffer areas where noxious weeds will be removed. **Noxious weed removal shall not be conducted within twenty feet of any sensitive plant species.** The botanist shall consult with the East Multnomah Soil and Water Conservation District (EMSWCD) on the noxious weed removal plan concerning methods of removal, disposal of noxious weeds and protection of sensitive plant species. To protect sensitive plant species, no mechanized equipment shall be used for the noxious weed removal (hand held tools without motors can be used). If chemical application is used it shall be non- broadcast methods of careful direct application such as hand wicker application and injection methods of the previously cut stems. Chemical treatment shall not be used in any area where sensitive plants could be harmed by them. Prior to any chemical use the botanist shall consult with EMSWCD as to types to be used given location, distance to water, and types of noxious weeds being controlled. During the noxious weed removal, the botanist shall be on-site supervising the work and ensuring the weed removal does not harm any sensitive plant. After the noxious weed removal plan is completed, sensitive plants have been flagged, and at least two weeks prior to any noxious weed removal, the botanist shall notify County Land Use Planning in writing with a description and details of the plan for the noxious weed removal. The botanist shall also notify this office when the project is complete [MCC 38.7075(K), (O), (Z)(1) and (Z)(5)].
3. The tops of the vaults (the visible portions) shall be painted a dark brown to match the natural landscape elements. The bridge crossing conduit shall be the installed using material that is dark gray or dark brown or be painted dark gray or dark brown prior to installation. If the conduit is to be painted it must be of a material that can accept paint without peeling [MCC 38.7040(A) (3) MCC 38.7040 (D)].
4. Vegetated areas disturbed as a result of this project shall be replanted with only native plant species of the Columbia River Gorge [MCC 38.7075 (B)].
5. If any Cultural Resources and/or Archaeological Resources are located on the property during this project, including but not limited to finding any evidence of historic campsites, old burial grounds, food/medicine plants, or human remains the following procedures shall be implemented [MCC 38.7050 (H)]:

This condition requires the immediate notification of the Planning Director in the event of the inadvertent discovery of cultural re-sources during construction or development.

- (1) In the event of the discovery of cultural resources, work in the immediate area of discovery shall be suspended until a cultural resource professional can evaluate the potential significance of the discovery pursuant to MCC 38.7050 (G) (3).

- (2) If the discovered material is suspected to be human bone or a burial, the following procedure shall be used:
- (a) Stop all work in the vicinity of the discovery.
 - (b) The applicant shall immediately notify the U.S. Forest Service, the applicant's cultural resource professional, the State Medical Examiner, and appropriate law enforcement agencies.
 - (c) The U.S. Forest Service shall notify the tribal governments if the discovery is determined to be an Indian burial or a cultural resource.
 - (d) A cultural resource professional shall evaluate the potential significance of the discovery pursuant to MCC 38.7050 (G) (3) and report the results to the U.S. Forest Service which shall have 30 days to comment on the report.
- (3) If the U.S. Forest Service determines that the cultural resource is not significant or does not respond within the 30 day response period, the cultural resource review process shall be complete and work may continue.
- (4) If the U.S. Forest Service determines that the cultural resource is significant, the cultural resource professional shall recommend measures to protect and/or recover the resource pursuant to MCC 38.7050 (G) (4) and (5).

Note: Questions or other further contact should be directed to Staff Planner, George Plummer, at (503) 988-3043 ext. 29152. Please call and set up an appointment to submit the noxious weed removal plan.

Notice to Mortgagee, Lien Holder, Vendor, or Seller:

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

1. **PROJECT DESCRIPTION**

Applicant: *Replacing an overhead utility line with an underground system within the ODOT right-of-way. The project involves removing the overhead power lines along the north side of Interstate 84 and placing them underground along the south side of the interstate. The project will occur over a distance of 2.1 mile between Bonneville and McCord Creek and over a distance of 500 feet at the Bonneville Dam interchange.*

The City of Cascade Locks is proposing to replace its current existing three phase overhead electrical lines (on the north side of I-84 within the ROW) with a three phase underground conductor placed in a conduit (on the south side of I-84 within the ROW). The powerline replacement is necessary as the existing power poles are approximately 50 years old and have had a history of disturbances and damage caused by trees, wind, ice and snow.

The project location will begin approximately 1,500-feet west of Tanner Creek Bridge (Bonneville Dam Exit 40) and extend 2.131 miles west to the McCord Creek Bridge. The five steps of the construction phase will include excavation, laying conduit, running wires, transferring power and demolition of the old system.

The applicant will employ a contractor to dig a trench approximately 18-20 inches wide and 36-48 inches deep for a length of 11,250 linear feet to install 4-inch conduit lines and conductor wire. The applicant will trench close to the edge of the hardened road surface, generally within 2-4 feet if permitted by ODOT. Excavators, backhoes, rock saws, directional boring equipment, light duty trucks and trailers will be required during excavation and conduit and wire installation and backfilling.

In order to ensure proper voltage flow and control, the applicant will install 11 concrete vaults (J-boxes) (5'x5'x5' in size) within the ROW. Nine J-Boxes will be installed on the south side and two will be installed on the north side. One vault on the north side will be for railroad service. The vault locations are currently staked and distanced approximately 1,100-1,300 feet apart.

Ten existing underground water drains are located within the southern ROW. The drains consist of concrete or metal pipes which can be accessed via metal grates for maintenance. Most of the drains are 5-8 feet from the edge of the hardened roadway, and the applicant intends to place most of the line between the drains and the hardened roadway, thus avoiding any disturbance to the drains.

Additionally, the conduit will need to be attached to the underside of the I-84 Moffett Creek Bridge. This bridge is not the historic register and is not the same as the 1915 bridge located on the Old Columbia River Highway which is also referred to as the "Moffett Creek Bridge".

Once the new system is complete, crews will transfer load from the old system to the new system. The old system will be de-energized and its components removed. Lines will be disconnected, materials recycled/reused when possible, and most of the utility poles will be cut flush to the ground to minimize potential environmental impacts. Light duty trucks and trailers will be used during the energy transfer and dismantling process. The project will impact 672 square feet of wetland buffer and 149 square feet of intermittent stream buffer. Total buffer impacts within the project site equal 821 square feet, of which 796 square feet will be only temporary impacts (Figures 4 and 6).

Construction Timing:

The Oregon Department of Fish and Wildlife (ODFW) has made a request that ground disturbance occur only between August 15 through March 31 in order to avoid disturbance of nesting birds and immature mammals. This is a recommendation and not a requirement of the permitting process.

The applicant has been awarded Hazard Mitigation Grant Program (HMGP) funds for the Southbank Undergrounding Project by the Federal Emergency Management Agency (FEMA), and one of the conditions of the grant is to finish construction by September 1, 2007. In order to meet this condition, the applicant will need to begin construction immediately, (pending permit approval by Multnomah County) or the funds will be lost and the project will not be able to continue. Due to the time restrictions the client will be unable to wait until August to begin construction. The disturbance caused by the road construction will be temporary and duration of construction will be 2-4 weeks.

METHODS

ELS assessed the project site for sensitive resources on January 30 and February 13, 2007. Sensitive resources and their buffers were field measured and surveyed using a hand-held Global Positioning System (GPS) unit with an accuracy of (+/-) 20 feet to determine if sensitive resources or buffers will be impacted within the project site.

One wetland, one intermittent stream and two perennial streams (McCord Creek and Moffett Creek) were located within the project site. No direct impacts to wetlands or streams will occur. Although a small amount of temporary impacts will occur within the buffers of the intermittent stream (149 square feet) and the wetland (672 square feet), no impacts will occur within the buffers of McCord Creek or Moffett Creek (Figures 3, 4, 5, and 6).

2. SITE AND VICINITY CHARACTERISTICS

Applicant: *The project site is located on the south side of I-84, approximately 1,500 feet west of Tanner Creek Bridge (mile-marker 40) and continuing west 2.131 miles to McCord Creek Bridge. The proposed construction will take place within the Oregon Department of Transportation (ODOT) right of way (ROW). Currently the ROW is used and maintained by ODOT and consists of previously disturbed vegetation and gravel. Existing physical features of the ROW throughout the project site range from open, disturbed fields to steep slopes a few feet from the road pavement (Figure 2 and Photoplates).*

Staff: *The proposed project is located in the previously disturbed road prism area of the I-84 right-of-way. The line passes over two streams by mounting on the bridges (Exhibit 1.3 and 1.5). The project is located in the Special Management Area (SMA) of the Columbia River Gorge National Scenic Area and within Gorge Special Open Space (GSO) Zone District (Exhibit 2.1).*

3. INITIATION OF ACTION BY PROPERTY OWNER

MCC 38.0550: **Except as provided in MCC 38.0760, Type I - III applications may only be initiated by written consent of the owner of record or contract purchaser. PC (legislative) actions may only be initiated by the Board of Commissioners, Planning Commission, or Planning Director.**

Staff: The I-84 property owner is ODOT. The property owner granted permission to the City of Cascade Lock through Permit Number 2CM36997 (Exhibit 1.2).

4. ADMINISTRATIVE PROCEDURES

4.1 Administrative Procedures for a Type II Case)

MCC 38.0530(B) Type II decisions involve the exercise of some interpretation and discretion in evaluating approval criteria. Applications evaluated through this process are typically assumed to be allowable in the underlying zone. County Review typically focuses on what form the use will take, where it will be located in relation to other uses, and it's relationship to scenic, natural, cultural and recreational resources of the area. However, an application shall not be approved unless it is consistent with the applicable siting standards and in compliance with approval requirements. Upon receipt of a complete application, notice of application and an invitation to comment is mailed to the Gorge Commission; the U.S. Forest Service; the Indian tribal governments; the State Historic Preservation Office; the Cultural Advisory Committee; and property owners within 750 feet of the subject tract. The Planning Director accepts comments for 14 days after the notice of application is mailed, except for comments regarding Cultural Resources, which will be accepted for 20 days after the notice is mailed. The Planning Directors decision is appealable to the Hearings Officer. If no appeal is filed the Planning Directors decision shall become final at the close of business on the 14th day after the date on the decision. If an appeal is received, the Hearings Officer decision is the County's final decision and is appealable to the Columbia River Gorge Commission within 30 days after the decision is final. The decision is final the day the decision is signed by the Hearings Officer.

Staff: This decision is a review of the proposed development pursuant to MCC 38.0530(B). The application was submitted on November 11, 2006 (Exhibit 1.1). A Completeness Review notice was sent on November 22, 2006 to interested agencies and Tribes. A letter from was received in response to comment on completeness of the application. The application was deemed complete as of February 27, 2007 the date additional materials were submitted. A 14 Day Opportunity to Comment notice was mailed by staff on March 12, 2007 to property owners within 750 feet of the subject tract, the Gorge Commission, the US Forest Service, and the Tribal Governments and other agencies and interested parties. One letter of comment was received addressing the proposal. It is summarized below. This decision was drafted and will be mailed in accordance with MCC 38.0660.

The following document was received during the completeness review: An email dated November 28, 2006 from Margaret L. Dryden, Heritage Resource Program Manager, Columbia River Gorge National Scenic Area, US Forest Service (Exhibit 3.1). In her email Ms. Dryden, stated, "A cultural resources reconnaissance survey is: Not Required" and "A Historic Survey is: Not Required."

A letter of comment dated March 26, 2007 was submitted by Richard Till, Land Use Law Clerk, Friends of the Columbia Gorge, (Exhibit 3.2). In his letter Mr. Till, listed several Code sections that are related to the proposed development. The issues raised in this letter will be addressed in the findings later in this decision, in Sections 5 through 9.

5. NATIONAL SCENIC AREA SITE REVIEW REQUIRED

5.1 Applicability

MCC 38.7010: With the exception of Primary Uses, no building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in the Columbia River Gorge National Scenic Area except when approved pursuant to MCC 38.0530 (B) or (C) or 38.7090.

* * *

MCC 38.7015: An application for NSA Site Review shall address the applicable criteria for approval, under MCC 38.7035 through 38.7090.

* * *

MCC 38.7020: A decision on an application for NSA Site Review shall be based upon findings of consistency with the criteria for approval specified in MCC 38.7035 through 38.7085 or 38.7090 as applicable.

Staff: The proposed use is listed as a review use in the GGR-5 zoning district. Therefore, a National Scenic Area Site Review is required. Findings addressing consistency have been made for the applicable criteria, under MCC 38.7035 through 38.7090.

5.2. GSO Zoning District

5.2.1. MCC 38.2625 (D) The following uses may be allowed on lands designated GSO, pursuant to MCC 38.0530 (B), when consistent with an open space plan approved by the U.S. Forest Service and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

(4) Utility facilities for public service upon a showing that:

- (a) There is no alternative location with less adverse effect on land designated GSO;**
- (b) The size is the minimum necessary to provide the service.**

Staff: The proposed project is to underground the electric transmission lines along the south side of I-84 to replace the lines that currently run along the north side of I-84 on poles. The line must run from Bonneville to Warrendale through the GSO District to provide electric service to Warrendale. The proposed project is to trench in the previously disturbed road prism of I-84 to install the electric line and to install 9 vaults. The trench will be the minimum necessary to bury the line and holes for the vaults will be dug out the minimum necessary to install vaults.

5.3 Review Applications

MCC 38.0045 (A) The following additional information shall be submitted for all review and conditional uses:

- (1) A list of Key Viewing Areas from which the proposed use would be visible.**
- (2) A map of the project area. The map shall be drawn to scale. The scale of the map shall be large enough to allow the reviewing agency to determine the location and extent of the proposed use and evaluate its effects on scenic, cultural, natural, and recreation resources. The map shall be prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail. If a parcel is very large, the map does**

not have to show the entire parcel. Rather, it may show only those portions of the parcel affected by the proposed use. The map shall include the following elements (listed in MCC 38.0045(A)(2)(a) through (o).

Staff: The information required that is applicable for the proposed use has been submitted (Exhibits 1.1 through 1.8)

6. SMA SCENIC REVIEW CRITERIA

MCC 38.7040: The following scenic review standards shall apply to all Review and Conditional Uses in the Special Management Area of the Columbia River Gorge National Scenic Area with the exception of rehabilitation or modification of historic structures eligible or on the National Register of Historic Places when such modification is in compliance with the national register of historic places guidelines:

Staff: In the following section finding are made for the applicable code sections for this project.

6.1. MCC 38.7040(A): All Review Uses and Conditional Uses visible from KVAs. This section shall apply to proposed development on sites topographically visible from KVAs::

Applicant: *The proposed project will be visible only from the key viewing area of Interstate 84. The vaults will be the only portion of the project visible and they will be flush to the ground. The project will run right along the Interstate so the vaults will be visible from the interstate but from no other key viewing areas.*

Staff: The proposed underground line will not be visible. The proposed buried vaults tops will be visible from I-84. The conduit for the bridge crossing will not be visible from any Key Viewing Area (KVA).

6.1.1. MCC 38.7040(A) (1) New developments and land uses shall be evaluated to ensure that the scenic standard is met and that scenic resources are not adversely affected, including cumulative effects, based on the degree of visibility from Key Viewing Areas.

Applicant: *The project replaces a system visible from I-84 and the Columbia River with a visually subordinate structure that is only visible from I-84. The portions that will be visible from I-84 are the vaults which are flush to the ground and will be painted to reduce visibility. The project will enhance the scenic quality of the area.*

Staff: The vaults will not be visually evident due to being placed flush with the ground and painted dark to blend into the environment. While the bridge crossings are another above ground component, a site visit demonstrated that the proposed crossing to be mounted on the underside of the bridges will not be visible from any KVA.

- 6.1.2. MCC 38.7040(A) (2) The required SMA scenic standards for all development and uses are summarized in the following table.**

REQUIRED SMA SCENIC STANDARDS		
LANDSCAPE SETTING	LAND USE DESIGNATION	SCENIC STANDARD
Coniferous Woodland	Forest (National Forest Lands), Open Space	NOT VISUALLY EVIDENT

Staff: The project is entirely located in the Coniferous Woodland Landscape Setting.

- 6.1.3. MCC 38.7040(A) (3) In all landscape settings, scenic standards shall be met by blending new development with the adjacent natural landscape elements rather than with existing development.**

Applicant: *The vaults will be the only portion of the project visible and they will be flush to the ground. They will be painted to match the natural surroundings.*

Staff: A condition will require that the vaults be painted a dark brown to match the natural landscape elements. The bridge crossings are another above ground component mounted on the underside of the bridges. The installed materials will need to be dark gray or dark brown. A condition will require bridge crossing materials to be dark gray or dark brown.

- 6.1.4. MCC 38.7040(A) (4) Proposed developments or land use shall be sited to achieve the applicable scenic standards. Development shall be designed to fit the natural topography and to take advantage of vegetation and land form screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics. When screening of development is needed to meet the scenic standard from key viewing areas, use of existing topography and vegetation shall be given priority over other means of achieving the scenic standard such as planting new vegetation or using artificial berms.**

Applicant: *There will be no permanent change in the topography of excavated sites for the construction of our underground lines. All trenches will be restored and any natural vegetation that is disturbed will grow back.*

Staff: The proposed development is sited along the edge of I-84 which will minimize grading. The project will not change the topography. The only minimal vegetation removal may be some grass at the edge of the road disturbed due the trenching for the line or the vaults. The visible component of the project, the vaults, will be installed at ground level using existing topography to screen the vaults. The vaults will not be screened by any vegetation due to their location directly adjacent to the road. Only the top will be visible. The proposed mitigation plan will include some removal of noxious weeds in the wetland buffer. This vegetation would not screen the proposed use. This criterion is met.

- 6.1.5. MCC 38.7040(A) (5) The extent and type of conditions applied to a proposed development or use to achieve the scenic standard shall be proportionate to its degree of visibility from key viewing areas.**

(a) Decisions shall include written findings addressing the Primary factors influencing the degree of visibility, including but not limited to:

1. The amount of area of the building site exposed to key viewing areas,
 2. The degree of existing vegetation providing screening,
 3. The distance from the building site to the key viewing areas from which it is visible,
 4. The number of key viewing areas from which it is visible, and
 5. The linear distance along the key viewing areas from which the building site is visible (for linear key viewing areas, such as roads).
- (b) Conditions may be applied to various elements of proposed developments to ensure they are visually subordinate to their setting as seen from key viewing areas, including but not limited to:
1. Siting (location of development on the subject property, building orientation, and other elements),
 2. Retention of existing vegetation,
 3. Design (color, reflectivity, size, shape, height, architectural and design details and other elements), and
 4. New landscaping.

Staff: Given that the only visible aspect of the proposed development is the top of the vaults and their location at the edge of the pavement of the highway, the condition to require them to be painted dark brown is proportionate to the degree of visibility from the highway. The extent and type of conditions applied to a proposed development or use to achieve the scenic standard are proportionate to its degree of visibility from key viewing areas.

- 6.1.6. MCC 38.7040(A)(6) Sites approved for new development to achieve scenic standards shall be consistent with guidelines to protect wetlands, riparian corridors, sensitive plant or wildlife sites and the buffer zones of each of these natural resources, and guidelines to protect cultural resources.**

MCC 38.0015 Definitions:

Development: Any mining, dredging, filling, grading, paving, excavation, land division, or structure, including but not limited to new construction of a building or structure.

Grading: Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.

Applicant: *No new development is proposed.*

Staff: The electric line undergrounding project including vaults and bridge crossings is a development project is considered development as indicated by the Code definition of development. The development will be consistent with guidelines to protect wetlands, riparian corridors, sensitive plant or wildlife sites and the buffer zones of each of these natural resources, and guidelines to protect cultural resources through conditions of approval. For the cultural and natural resources review see Sections 7 and 8 of this decision.

- 6.1.7. MCC 38.7040(A)(7) Proposed developments shall not protrude above the line of a bluff, cliff, or skyline as seen from Key Viewing Areas.**

Applicant: *The vault locations are the only visible portion of the project. They will be flush with the ground and not protrude above the line of a bluff, cliff, or skyline as seen from Key Viewing Areas.*

Staff: The visible components of this development will be at ground level or mounted along the underside of the bridge crossings. This criteria is met.

6.1.8. MCC 38.7040(A) (8) Structure height shall remain below the average tree canopy height of the natural vegetation adjacent to the structure, except if it has been demonstrated that compliance with this standard is not feasible considering the function of the structure.

Applicant: *No portion of the project will exceed the height of the tree canopy.*

Staff: The visible components of this development will be the top of the vaults flush with ground level. The other above ground component, the bridge crossing installation, will be below the average tree canopy adjacent to the project. This criterion is met.

6.1.9. MCC 38.7040(A) (9) The following guidelines shall apply to new landscaping used to screen development from key viewing areas:

- (a) New landscaping (including new earth berms) to achieve the required scenic standard from key viewing areas shall be required only when application of all other available guidelines in this chapter is not sufficient to make the development meet the scenic standard from key viewing areas. Development shall be sited to avoid the need for new landscaping wherever possible.
- (b) If new landscaping is necessary to meet the required standard, existing on-site vegetative screening and other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any vegetation planted pursuant to this guideline shall be sized to provide sufficient screening to meet the scenic standard within five years or less from the commencement of construction.
- (c) Landscaping shall be installed as soon as practicable, and prior to project completion. Applicants and successors in interest for the subject parcel are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.
- (d) The Scenic Resources Implementation Handbook shall include recommended species for each landscape setting consistent with the Landscape Settings Design Guidelines in this chapter, and minimum recommended sizes of new trees planted (based on average growth rates expected for recommended species).

Applicant: *New landscaping will not be necessary to screen the vaults from key viewing areas.*

Staff: No new landscaping will be needed to screen the development. This criterion is not applicable to this project.

6.1.10. MCC 38.7040(A) (10) 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 or the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The *Scenic Resources Implementation Handbook* will include a recommended palette of colors as dark or darker than the colors in the shadows of the natural features surrounding each landscape setting

Applicant: *No buildings are proposed. The only visible portion of the project is the vaults which will be colored dark brown to match the surrounding landscape.*

Staff: A condition of approval will require the top of the vaults to be painted dark brown a dark earth-tone color found in the surrounding landscape. A condition will require the bridge crossing installation to be a dark gray or brown. This criterion will be met through a condition.

- 6.1.11. MCC 38.7040(A) (11)** The exterior of buildings on lands seen from key viewing areas shall be composed of non-reflective materials or materials with low reflectivity. The *Scenic Resources Implementation Handbook* will include a recommended list of exterior materials. These recommended materials and other materials may be deemed consistent with this guideline, including those where the specific application meets approval thresholds in the “Visibility and Reflectivity Matrices” in the *Implementation Handbook*. Continuous surfaces of glass unscreened from key viewing areas shall be limited to ensure meeting the scenic standard. Recommended square footage limitations for such surfaces will be provided for guidance in the *Implementation Handbook*.

Applicant: *No buildings are proposed. The only visible portion of the project is the vaults which will be painted to ensure they are non-reflective. The total visible portion of the vaults will be 4ft x 4ft flush with the ground.*

Staff: The proposed development is not a building but will be installed using non-reflective or low reflective materials.

* * *

- 6.2. MCC 38.7040 (B)** The following shall apply to all lands within SMA landscape settings regardless of visibility from KVAs (includes areas seen from KVAs as well as areas not seen from KVAs):

- (2) Coniferous Woodlands and Oak-Pine Woodland:** Woodland areas shall retain the overall appearance of a woodland landscape. New developments and land uses shall retain the overall visual character of the natural appearance of the Coniferous and Oak/Pine Woodland landscape.
- (a) Buildings in the Coniferous Woodland landscape setting** shall be encouraged to have a vertical overall appearance and a horizontal overall appearance in the Oak-Pine Woodland landscape setting.
- (b) Use of plant species native to the landscape setting** shall be encouraged. Where non-native plants are used, they shall have native appearing characteristics.

Applicant: *The visual character of woodland areas will be enhanced by removing the power poles. No buildings are proposed. No non-native species are proposed.*

Staff: The proposed project does not include any buildings. Plants used for the mitigation will be native plants.

- 6.3. MCC 38.7040 (C) SMA Requirements for KVA Foregrounds and Scenic Routes**

Staff: In the following section finding are made for the applicable code sections for this project.

- 6.3.1. MCC 38.7040 (C) (1)** All new developments and land uses immediately adjacent to the Historic Columbia River Highway, Interstate 84, and Larch Mountain Road shall be in conformance with state or county scenic route standards

Applicant: *The new development would move the system from the HRCH to the I-84 right of way.*

Staff: The *I-84 Corridor Strategy* is a design manual for facilities along the highway. While the vaults discussed in the manual are used as deicing infrastructures, these vaults are very similar in nature and design to the proposed vaults. The proposed vaults meet these design standards, thus meet the scenic standards. The bridge crossing mounted to the underside of the bridges will not be visible from the highway.

- 6.3.2. MCC 38.7040 (C) (2) The following guidelines shall apply only to development within the immediate foregrounds of key viewing areas. Immediate foregrounds are defined as within the developed prism of a road or trail KVA or within the boundary of the developed area of KVAs such as Crown Pt. and Multnomah Falls. They shall apply in addition to MCC 38.7040(A).**

Applicant: *The project meets the standards of 38.7040 (A).*

Staff: The project meets the applicable standards of 38.7040(A), visual not evident, through the conditions of approval. Since the project meets MCC 38.7040(A), the remaining applicable standards are form, line, color, texture and design to ensure it blends in to the setting and meets the scenic corridor standards. The setting for the vaults is right next to the pavement of the highway. They will be at ground level, with dark color to blend into the shadows which applies the color standards of the Scenic Resources Implementation Handbook and applies the policy for vaults in the *I-84 Corridor Strategy* manual. In finding for MCC 38.7040 (C)(1) the vaults were found to meet the scenic corridor standards. The bridge crossing will not be seen from the KVA. These standards are met by the proposed development.

- 6.4. MCC 38.7040 (D) SMA Requirements for areas not seen from KVAs**

Unless expressly exempted by other provisions in MCC 38.7040, colors of structures on sites not visible from key viewing areas shall be earth-tones found at the specific site. The specific colors or list of acceptable colors shall be approved as a condition of approval, drawing from the recommended palette of colors included in the Scenic Resources Implementation Handbook.

Applicant: *The visible vaults will be colored to blend into the surrounding landscape.*

Staff: The bridge crossings are above ground components of this project which are not visible from any KVA. A condition of approval will require the materials be a dark brown or gray, dark earth tone colors (top three rows) as shown in the Scenic Resources Implementation Handbook recommended colors chart. The standard can be met through a condition.

7. SMA CULTURAL RESOURCE REVIEW CRITERIA

Staff: In the following section finding are made for the applicable code sections for this project.

- 7.1. MCC 38.7050 (A) The cultural resource review criteria shall be deemed satisfied, except MCC 38.7050 (H), if the U.S. Forest Service or Planning Director does not require a cultural resource survey and no comment is received during the comment period provided in MCC 38.7025 (B).**

Staff: Margaret L. Dryden, Heritage Resource Program Manager, Columbia River Gorge National Scenic Area, US Forest Service submitted a cultural resources report on November 28, 2006 (Exhibit 3.1). In her email Ms. Dryden, USFS, stated, “A cultural resources reconnaissance survey is: Not Required” and “A Historic Survey is: Not Required.” These criteria are met.

7.2. MCC 38.7050 (H) Discovery During Construction

All authorizations for new developments or land uses shall be conditioned to require the immediate notification of the Planning Director in the event of the inadvertent discovery of cultural re-sources during construction or development.

- (1) In the event of the discovery of cultural resources, work in the immediate area of discovery shall be suspended until a cultural resource professional can evaluate the potential significance of the discovery pursuant to MCC 38.7050 (G) (3).**
- (2) If the discovered material is suspected to be human bone or a burial, the following procedure shall be used:**
 - (a) Stop all work in the vicinity of the discovery.**
 - (b) The applicant shall immediately notify the U.S. Forest Service, the applicant’s cultural resource professional, the State Medical Examiner, and appropriate law enforcement agencies.**
 - (c) The U.S. Forest Service shall notify the tribal governments if the discovery is determined to be an Indian burial or a cultural resource.**
 - (d) A cultural resource professional shall evaluate the potential significance of the discovery pursuant to MCC 38.7050 (G) (3) and report the results to the U.S. Forest Service which shall have 30 days to comment on the report.**
- (3) If the U.S. Forest Service determines that the cultural resource is not significant or does not respond within the 30 day response period, the cultural resource review process shall be complete and work may continue.**
- (4) If the U.S. Forest Service determines that the cultural resource is significant, the cultural resource professional shall recommend measures to protect and/or recover the resource pursuant to MCC 38.7050 (G) (4) and (5).**

Applicant: *All city crews and contracted crewman will be given a copy of applicable Multnomah County Code*

Staff: A condition will require these criteria to be met.

8. SMA NATURAL RESOURCE REVIEW CRITERIA

Staff: In the following section finding are made for the applicable code sections for this project.

MCC 38.7075: All new developments and land uses shall be evaluated using the following standards to ensure that natural resources are protected from adverse effects. Comments from state and federal agencies shall be carefully considered.

Staff: The development was evaluated using the standards below. The federal agencies that reviewed this project included the Gorge Commission, the US Forest Service, and FEMA. State agencies include the Oregon Department of Fish and Wildlife (ODFW), Oregon Natural Heritage Program, Oregon Department of Transportation and State Historic Preservation Office. Comments from state and federal agencies were carefully considered.

- 8.1. MCC 38.7075 (A) All Water Resources shall, in part, be protected by establishing undisturbed buffer zones as specified in MCC 38.7075 (2)(a) and (2)(b). These buffer zones are measured horizontally from a wetland, stream, lake, or pond boundary as defined in MCC 38.7075 (2)(a) and (2)(b).**
- (1) All buffer zones shall be retained undisturbed and in their natural condition, except as permitted with a mitigation plan.**
 - (2) Buffer zones shall be measured outward from the bank full flow boundary for streams, the high water mark for ponds and lakes, the normal pool elevation for the Columbia River, and the wetland delineation boundary for wetlands on a horizontal scale that is perpendicular to the wetlands, stream, pond or lake boundary. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:**
 - (a) A minimum 200 foot buffer on each wetland, pond, lake, and each bank of a perennial or fish bearing stream, some of which can be intermittent.**
 - (b) A 50-foot buffer zone along each bank of intermittent (including ephemeral), non-fish bearing streams.**
 - (c) Maintenance, repair, reconstruction and realignment of roads and railroads within their rights-of-way shall be exempted from the wetlands and riparian guidelines upon demonstration of all of the following:**
 - 1. The wetland within the right-of-way is a drainage ditch not part of a larger wetland outside of the right-of-way.**
 - 2. The wetland is not critical habitat.**
 - 3. Proposed activities within the right-of-way would not adversely affect a wetland adjacent to the right-of-way.**
 - (3) The buffer width shall be increased for the following:**
 - (a) When the channel migration zone exceeds the recommended buffer width, the buffer width shall extend to the outer edge of the channel migration zone.**
 - (b) When the frequently flooded area exceeds the recommended riparian buffer zone width, the buffer width shall be extended to the outer edge of the frequently flooded area.**
 - (c) When an erosion or landslide hazard area exceeds the recommended width of the buffer, the buffer width shall be extended to include the hazard area.**

Applicant: *The project includes the crossing of Moffett Creek and McCord Creek. This will be accomplished by attaching to the existing I-84 bridges.*

McCord Creek

McCord Creek is a perennial stream located at the western extent of the project site, approximately 150 feet west of mile-marker 38. The stream is positioned between east and west facing slopes and flows north to the Columbia River. According to MCC 38.7075, perennial streams require a 200-foot buffer zone. McCord Creek's Ordinary High Water Mark (OHWM) is located approximately 125 feet east from the proposed construction; therefore, 186 square feet of temporary buffer impacts and 25 square feet of permanent buffer impacts will occur within the buffer zone of McCord Creek (Figure 3 and Table 1).

Moffett Creek

Moffett Creek is a perennial stream located adjacent to mile-marker 39. The stream is positioned between east and west facing slopes and flows north to the Columbia River. The OHWM on the west side of Moffett Creek is approximately 175 feet from the proposed construction, and the OHWM on the east side of Moffett Creek is approximately 200 feet from the proposed

construction. Therefore, 132 square feet of temporary buffer impacts and 36 square feet of permanent buffer impacts will occur within the buffer zone of Moffett Creek. (Figure 5 and Table 1)

Intermittent Stream

The intermittent stream is located approximately 0.3 miles west of mile-marker 39. The stream flows north into a 36-inch culvert where it continues under I-84 and eventually flows into the Columbia River. MCC 38.7060(E)(1)(b) requires a 50-foot buffer zone for intermittent streams. The 50-foot stream buffer continues past the edge of the road pavement, making it impossible to avoid buffer impacts from the proposed road construction. Approximately 149 square feet of buffer, presently disturbed by pavement and road shoulder, will be temporarily impacted by the proposed construction (Figure 4 and Photoplates).

Wetland

The wetland is located approximately 1,500 feet east of the Moffett Creek Bridge. The wetland appears to be associated with seepages from an adjacent north facing slope. The wetland is located approximately 15-feet south of the road pavement. MCC 38.7055(G)(3)(c), requires a 150-foot buffer zone for wetlands with dominant vegetation consisting of herbaceous communities. The 150-foot wetland buffer continues past the edge of the road pavement, making it impossible to avoid buffer impacts from the proposed construction. Approximately 647 square feet of buffer will be temporarily impacted by the proposed construction. A J-box will be installed approximately 30 feet west of the wetland. The J-box will impact approximately 25 square feet of wetland buffer (Figure 6 and Photoplates).

Staff: The applicant determined that the proposed project crosses a wetland buffer which is 200 foot area surrounding the wetland. The project also crosses an intermittent non-fish bearing stream with a buffer that is 50 feet from the stream on both sides, and two stream buffers of 200 feet from the streams on each side for McCord Creek and Moffett Creek which are perennial fish bearing streams (Exhibits 1.4 and 1.5).

8.2. MCC 38.7075 (B) When a buffer zone is disturbed by a new use, it shall be replanted with only native plant species of the Columbia River Gorge.

Applicant: *No non-native species are proposed.*

Staff: The proposed project is located in the predominately graveled shoulder area of the highway. There may be minor areas of disturbance where grass is growing in these buffer areas along the graveled shoulder where the line will be buried. If the project disturbs any grassy area, a condition will require vegetative areas that are disturbed be replanted with native plant species of the Columbia River Gorge.

8.3. MCC 38.7075 (C) The applicant shall be responsible for identifying all water resources and their appropriate buffers.

Applicant: (see the above Section 8.1.)

Staff: The applicant has identified the water resources and their buffer areas in Exhibit 1.5.

- 8.4. MCC 38.7075 (D) Wetlands Boundaries shall be delineated using the following:**
- (1) The approximate location and extent of wetlands in the Scenic Area is shown on the National Wetlands Inventory (U. S. Department of the Interior 1987). In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands.**
 - (2) Some wetlands may not be shown on the wetlands inventory or soil survey maps. Wetlands that are discovered by the local planning staff during an inspection of a potential project site shall be delineated and protected.**
 - (3) The project applicant shall be responsible for determining the exact location of a wetlands boundary. Wetlands boundaries shall be delineated using the procedures specified in the ‘1987 Corps of Engineers Wetland Delineation Manual (on-line Edition)’.**
 - (4) All wetlands delineations shall be conducted by a professional who has been trained to use the federal delineation procedures, such as a soil scientist, botanist, or wetlands ecologist.**

Applicant: *The wetland is located approximately 1,500 feet east of the Moffett Creek Bridge. The wetland appears to be associated with seepages from an adjacent north facing slope. The wetland is located approximately 15-feet south of the road pavement.*

Staff: Michele McGraw, Wildlife Biologist, Ecological Land Services, Inc followed these procedures in identifying the wetland near Moffett Creek (Exhibit 1.5).

- 8.5. MCC 38.7075(E) Stream, pond, and lake boundaries shall be delineated using the bank full flow boundary for streams and the high water mark for ponds and lakes. The project applicant shall be responsible for determining the exact location of the appropriate boundary for the water resource.**

Staff: Michele McGraw, Wildlife Biologist, Ecological Land Services, Inc followed these procedures in identifying the boundaries of the streams, Moffett Creek, McCord Creek and an unnamed stream (Exhibit 1.5).

- 8.6. MCC 38.7075(F) The local government may verify the accuracy of, and render adjustments to, a bank full flow, high water mark, normal pool elevation (for the Columbia River), or wetland boundary delineation. If the adjusted boundary is contested by the project applicant, the local government shall obtain professional services, at the project applicant's expense, or the county will ask for technical assistance from the U.S. Forest Service to render a final delineation.**

Staff: Given the nature of the disturbance being within the previously disturbed road prism and the mounting on the bridges, staff found it unnecessary to verify accuracy of measurements of Ms. McGraw's field work. Staff has confidence these measurements are correct.

- 8.7. MCC 38.7075(G) Buffer zones shall be undisturbed unless the following criteria have been satisfied:**

- (1) The proposed use must have no practicable alternative as determined by the practicable alternative test. Those portions of a proposed use that have a practicable alternative will not be located in wetlands, stream, pond, lake, and riparian areas and/or their buffer zone.**

Applicant: *The project must encroach in the 200 ft buffer zone of McCord Creek and Moffett Creek in order to cross those bodies of water.*

Staff: The proposed electric line undergrounding project will result in improvement to the scenic quality of this stretch of I-84. It will also reduce public safety hazards of power lines coming down during ice storms. Burying the line along the right-of-way in the disturbed road prism and crossing the stream by mounting the line on the underside of the bridges is the most practical alternative and results in the least amount of disturbance. It is necessary for this project to cross the streams. The project is located on the south side of the road to prevent conflicts with the bicycle path, a recreation resource. There is no alternative to the proposed minor disturbance within the previously disturbed road prism of the buffer areas. This standard is met.

(2) Filling and draining of wetlands shall be prohibited with exceptions related to public safety or restoration/enhancement activities as permitted when all of the following criteria have been met: * * *

Applicant: *No filling or draining of wetlands is proposed.*

Staff: No wetland area will be filled due to this project.

(3) Unavoidable impacts to wetlands and aquatic and riparian areas and their buffer zones shall be offset by deliberate restoration and enhancement or creation (wetlands only) measures as required by the completion of a mitigation plan.

Applicant: *The crossing of McCord Creek and Moffett Creek will have no impact on the creeks.*

Staff: The proposed project has very minor impacts that are limited to the disturbed road prism of the buffer areas only. Applicant has proposed a mitigation plan to remove the invasive noxious plant species within wetland buffer in the I-84 right-of-way. This plan as amended according to ODFW recommendations, will restore and enhance the ability of native plant species to reclaim this area.

- 8.8. MCC 38.7075 (H) Protection of sensitive wildlife/plant areas and sites shall begin when proposed new developments or uses are within 1000 feet of a sensitive wildlife/plant site and/or area. Sensitive Wildlife Areas are those areas depicted in the wildlife inventory and listed in Table 4 of the Management Plan titled “Types of Wildlife Areas and Sites Inventoried in the Columbia Gorge”, including all Priority Habitats Table. Sensitive Plants are listed in Table 7 of the Management Plan, titled “Columbia Gorge and Vicinity Endemic Plant Species.” The approximate locations of sensitive wildlife and/or plant areas and sites are shown in the wildlife and rare plant inventory.**

Applicant: *The project is within 1000 ft of the Columbia River and McCord Creek which are both contain sensitive wildlife/plants.*

Staff: The project is within 1000 feet of sensitive wildlife/plant areas.

- 8.9. MCC 38.7075 (I) The local government shall submit site plans (of uses that are proposed within 1,000 feet of a sensitive wildlife and/or plant area or site) for review to the U.S. Forest Service and the appropriate state agencies (Oregon Department of Fish and Wildlife for wildlife issues and by the Oregon State Natural Heritage Program for plant issues).**

Applicant: *Oregon Fish and Wildlife reviewed the proposal and concluded that the project would not have any significant effect upon fish and wildlife.*

Staff: The application materials were sent to the US Forest Service, Oregon Department of Fish and Wildlife and Oregon Natural Heritage Program for completeness review when the application was first submitted. The mitigation plan which was submitted later was sent to these agencies during the opportunity to comment period.

8.10. MCC 38.7075 (J) The U.S. Forest Service wildlife biologists and/or botanists, in consultation with the appropriate state biologists, shall review the site plan and their field survey records.

* * *

Staff: The proposed project plans have been reviewed by the US Forest Service and the ODFW and Natural Heritage Program. ODFW submitted comments requesting mitigation for the project (Exhibits 1.8 and 3.3).

8.12. MCC 38.7075 (K) The local government, in consultation with the State and federal wildlife biologists and/or botanists, shall use the following criteria in reviewing and evaluating the site plan to ensure that the proposed developments or uses do not compromise the integrity and function of or result in adverse affects to the wildlife or plant area or site:

- (1) Published guidelines regarding the protection and management of the affected wildlife/plant species. Examples include: the Oregon Department of Forestry has prepared technical papers that include management guidelines for osprey and great blue heron; the Washington Department of Wildlife has prepared similar guidelines for a variety of species, including the western pond turtle, the peregrine falcon, and the Larch Mountain salamander (Rodrick and Milner 1991).
- (2) Physical characteristics of the subject parcel and vicinity, including topography and vegetation.
- (3) Historic, current, and proposed uses in the vicinity of the sensitive wildlife/plant area or site.
- (4) Existing condition of the wildlife/plant area or site and the surrounding habitat and the useful life of the area or site.
- (5) In areas of winter range, habitat components, such as forage, and thermal cover, important to the viability of the wildlife must be maintained or, if impacts are to occur, enhancement must mitigate the impacts so as to maintain overall values and function of winter range.
- (6) The site plan is consistent with the "Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources" (Oregon Department of Fish and Wildlife 2000).
- (7) The site plan activities coincide with periods when fish and wildlife are least sensitive to disturbance. These would include, among others, nesting and brooding periods (from nest building to fledgling of young) and those periods specified.
- (8) The site plan illustrates that new developments and uses, including bridges, culverts, and utility corridors, shall not interfere with fish and wildlife passage.
- (9) Maintain, protect, and enhance the integrity and function of Priority Habitats (such as old growth forests, talus slopes, and oak woodlands) as listed in the Priority Habitats Table. This includes maintaining structural, species, and age diversity, maintaining connectivity within and between plant communities, and ensuring that cumulative impacts are considered in documenting integrity and function.

Staff: The proposed project is in the I-84 previously disturbed road prism and on the underside of the bridges. The applicant submitted a FEMA National Environmental Policy Act compliance letter. The materials submitted with this application were submitted to state and federal agencies for their review. Two letters were submitted by ODFW after their review of the project (Exhibit 1.9 and 3.3). In a letter dated July 19, 2006, Devin L. Simmons, ODFW Habitat Biologist stated that “ODFW has determined that the project will not have any significant effect upon fish and wildlife.” Mr. Simmons included several recommended mitigation actions for the project. The applicant submitted a mitigation plan, after the Simmons letter was submitted, for work proposed in stream and wetland buffer areas. In the mitigation plan the applicant proposed an amended version of these recommendations. Staff forwarded this plan to ODFW. Todd Alsbury, ODFW District Fisheries Biologist submitted an amended letter dated May 16, 2007 addressing fish and wildlife concerns with revised recommended mitigation measures.

- 8.13. MCC 38.7075 (L) The wildlife/plant protection process may terminate if the local government, in consultation with the U.S. Forest Service and state wildlife agency or Heritage program, determines (1) the sensitive wildlife area or site is not active, or (2) the proposed use is not within the buffer zones and would not compromise the integrity of the wildlife/plant area or site, and (3) the proposed use is within the buffer and could be easily moved out of the buffer by simply modifying the project proposal (site plan modifications). If the project applicant accepts these recommendations, the local government shall incorporate them into its development review order and the wildlife/plant protection process may conclude.**

Staff: The proposed development does not meet the standards to be terminated.

- 8.1.4. MCC 38.7075 (M) If the above measures fail to eliminate the adverse affects, the proposed project shall be prohibited, unless the project applicant can meet the Practicable Alternative Test and prepare a mitigation plan to offset the adverse effects by deliberate restoration and enhancement.**

Staff: The project meets the practicable alternatives test, it can not avoid the stream buffers and the location due its necessity of running along the road and the need to cross the streams. Due to the bike path area on the north side of the road, the line must be installed on the south side and must cross the wetland buffer area within the road prism. The applicant has submitted a mitigation plan to offset the adverse effects through restoration and enhancement.

- 8.15. MCC 38.7075 (N) The local government shall submit a copy of all field surveys (if completed) and mitigation plans to the U.S. Forest Service and appropriate state agencies. The local government shall include all comments in the record of application and address any written comments submitted by the state and federal wildlife agency/heritage programs in its development review order. Based on the comments from the state and federal wildlife agency/heritage program, the local government shall make a final decision on whether the proposed use would be consistent with the wildlife/plant policies and guidelines. If the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the local government shall justify how it reached an opposing conclusion.**

Staff: The proposed project is in the I-84 previously disturbed road prism and on the underside of the bridges. In a letter dated July 19, 2006 (Exhibit 1.9), Devin L. Simmons, ODFW Habitat Biologist stated that “ODFW has determined that the project will not have any significant effect

upon fish and wildlife.” Mr. Simmons included several recommended mitigation actions for the project. In the proposed mitigation plan the applicant proposed an amended version of these recommendations. In a letter dated May 16, 2007 (Exhibit 3.3), Todd Alsbury, ODFW District Fisheries Biologist revised the recommendation to include the following:

- The removal of noxious weeds such as English Ivy, Scott’s Broom, Japanese Knotweed, Tansy Ragwort, and Himalayan Blackberry should be removed from the right-of-way within the buffer areas of all streams and identified wetlands. It is not necessary to remove all noxious weeds outside of these buffers areas. But, if during construction, noxious weeds are excavated they should be buried in and upland disposal area.
- We recommend that ground disturbance occur from July 1 – March 31 in areas outside of sensitive buffer areas. Ground disturbance in the sensitive buffer areas should only occur from August 15 – March 31.
- We recommend that work associated with placement of utility lines under bridge overpasses only occur from August 1 – March 31 to protect swallows that may be nesting beneath bridges.
- It is well documented that powerline poles serve as important perching location and occasional nesting platforms for birds; especially raptors. The City of Cascade Locks is encouraged to place poles to compensate for this, or retain several old poles that are still sound.

8.16. MCC 38.7075 (O) The local government shall require the project applicant to revise the mitigation plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife/plant area or site.

Staff: The applicant proposes a mitigation plan that includes five power poles on the north side of I-84 to be retained for raptor use and the removal of noxious weeds from the wetland buffer area in the I-84 right-of way. Given ODFW recommendations staff will include the following as mitigation measures which include additional details to protect sensitive plant and animal species as conditions:

- Noxious weeds such as English Ivy, Scott’s Broom, Japanese Knotweed, Tansy Ragwort, and Himalayan Blackberry shall be removed from the right-of-way within the buffer areas shown in Exhibit 1.5, Buffer Mitigation Plan (Figures 3, 4, 5, and 6) of the streams and wetland located along the project, per Oregon Department of Fish and Wildlife request. To ensure that sensitive plant species are not harmed, prior to the noxious weed removal portion of this project, the City of Cascade Locks shall retain a botanist qualified to identify sensitive plant species of the Columbia River Gorge. This botanist shall identify and flag all sensitive plants in each buffer areas where noxious weeds will be removed. Noxious weed removal shall not be conducted within twenty feet of any sensitive plant species. The botanist shall consult with the East Multnomah Soil and Water Conservation District (EMSWCD) on the noxious weed removal plan concerning methods of removal, disposal of noxious weeds and protection of sensitive plant species. To protect sensitive plant species, no mechanized equipment shall be used for the noxious weed removal (hand held tools without motors can be used). If chemical application is used it shall be non-broadcast methods of careful direct application such as hand wicker application and injection methods of the previously cut stems. Chemical treatment shall not be used in any area where sensitive plants could be harmed by them. Prior to any chemical use the botanist shall consult with EMSWCD as to types to be used given location, distance to water, and types of noxious weeds being controlled. During the noxious weed removal, the

botanist shall be on-site supervising the work and ensuring the weed removal does not harm any sensitive plant. After the noxious weed removal plan is completed, sensitive plants have been flagged, and at least two weeks prior to any noxious weed removal, the botanist shall notify County Land Use Planning in writing with a description and details of the plan for the noxious weed removal. The botanist shall also notify this office when the project is complete details of the plan and again notifying this office when the project is complete.

- Ground disturbance related to the project shall be limited to the time period between July 1st and March 31st in areas outside of sensitive buffer areas and in the sensitive buffer areas limited to between August 15th and March 31st. Work associated with placement of the utility lines under the bridges shall be limited to between August 1st and March 31st.
- Five of existing poles shall be retained for perching and nest use of the raptors in the area.

8.17. MCC 38.7075 (P) Soil productivity shall be protected using the following guidelines:

- (1) A description or illustration showing the mitigation measures to control soil erosion and stream sedimentation.**
- (2) New developments and land uses shall control all soil movement within the area shown on the site plan.**
- (3) The soil area disturbed by new development or land uses, except for new cultivation, shall not exceed 15 percent of the project area.**
- (4) Within 1 year of project completion, 80 percent of the project area with surface disturbance shall be established with effective native ground cover species or other soil-stabilizing methods to prevent soil erosion until the area has 80 percent vegetative cover.**

Staff: The proposed project is within the previously disturbed road prism which does not have a soil productivity. This standard is not applicable.

8.18. MCC 38.7075 (Q) An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes. A practicable alternative does not exist if a project applicant satisfactorily demonstrates all of the following:

- (1) The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, wildlife or plant areas and/or sites.**
- (2) The basic purpose of the use cannot be reasonably accomplished by reducing its proposed size, scope, configuration, or density, or by changing the design of the use in a way that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, wildlife or plant areas and/or sites..**
- (3) Reasonable attempts were made to remove or accommodate constraints that caused a project applicant to reject alternatives to the proposed use. Such constraints include inadequate infrastructure, parcel size, and land use designations. If a land use designation or recreation intensity class is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist.**

Staff: The basic purpose is the transmission of electricity to residential dwellings located west of the project. The proposed electric line undergrounding project will result in improvement to the scenic quality of this stretch of I-84. It will also reduce public safety hazards of power lines coming down during ice storms. Burying the line along the right-of-way in the disturbed road

prism and crossing the streams by mounting the line on the underside of the bridges is the most practical alternative and results in the least amount of disturbance.

Relocating the project to another location would result in development in areas not previously disturbed. The right-of-way has been historically used for this purpose. The project is located on the south side of the highway to prevent impacts to the bicycle trail, a recreational resource, located adjacent to the north of the highway. There is no alternative to the proposed minor disturbance in the road prism of the buffer areas. This standard is met.

8.19. MCC 38.7075 (R) The Mitigation Plan shall be prepared when:

- (1) The proposed development or use is within a buffer zone (wetland, pond, lakes, riparian areas, wildlife or plant areas and/or sites).**
- (2) There is no practicable alternative as determined by MCC 38.7075 (Q).**

Staff: The proposed project is within the buffer zone for a wetland, an intermittent stream, McCord Creek and Moffet Creek. There is no practicable alternative as determined by findings for MCC 38.7075 (Q) above (Exhibit 1.3 -1.5).

8.20. MCC 38.7075 (S) In all cases, Mitigation Plans are the responsibility of the applicant and shall be prepared by an appropriate professional (botanist/ecologist for plant sites, a wildlife/fish biologist for wildlife/fish sites, and a qualified professional for water resource sites).

Staff: The mitigation plan was prepared by a Michele McGraw, Wildlife Biologist for water resource site. Conditions will require a qualified botanist supervise the noxious weed removal portion of the project.

8.21. MCC 38.7075 (U) The applicant shall submit the mitigation plan to the local government. The local government shall submit a copy of the mitigation plan to the U.S. Forest Service, and appropriate state agencies. If the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the local government shall justify how it reached an opposing conclusion.

Staff: The applicant submitted a mitigation plan which was submitted to the U.S. Forest Service, and appropriate state agencies (ODFW and Natural Heritage Program). ODFW submitted recommended mitigation measures, which have been adopted as conditions. For the protection of sensitive animal and plant species staff has added detailed requirements for the noxious weed removal portion of the project as conditions.

8.22. MCC 38.7075 (V) A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a mitigation plan involving wetland creation.

Staff: The mitigation plan does not include wetland creation. This standard is not applicable.

8.23. MCC 38.7075 (W) Mitigation plans shall include maps, photographs, and text. The text shall:

- (1) Describe the biology and/or function of the sensitive resources (e.g. Wildlife/plant species, or wetland) that will be affected by a proposed use. An ecological assessment of the sensitive resource to be altered or destroyed and the condition of the resource that will**

result after restoration will be required. Reference published protection and management guidelines.

- (2) Describe the physical characteristics of the subject parcel, past, present, and future uses, and the past, present, and future potential impacts to the sensitive resources. Include the size, scope, configuration, or density of new uses being proposed within the buffer zone.
- (3) Explain the techniques that will be used to protect the sensitive resources and their surrounding habitat that will not be altered or destroyed (for examples, delineation of core habitat of the sensitive wildlife/plant species and key components that are essential to maintain the long-term use and integrity of the wildlife/plant area or site).
- (4) Show how restoration, enhancement, and replacement (creation) measures will be applied to ensure that the proposed use results in minimum feasible impacts to sensitive resources, their buffer zones, and associated habitats.
- (5) Show how the proposed restoration, enhancement, or replacement (creation) mitigation measures are NOT alternatives to avoidance. A proposed development/use must first avoid a sensitive resource, and only if this is not possible should restoration, enhancement, or creation be considered as mitigation. In reviewing mitigation plans, the local government, appropriate state agencies, and U.S. Forest Service shall critically examine all proposals to ensure that they are indeed last resort options.

Staff: The applicant has submitted a mitigation plan that's meets these standards.

- 8.24. MCC 38.7075 (X) At a minimum, a project applicant shall provide to the local government a progress report every 3-years that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor all mitigation progress.**

Staff: A condition will require that once a noxious weed removal plan complete, sensitive plants have been flagged and the EMSWCD has been consulted by the project botanist prior to any weed removal, the botanist submit the plan to this office. The submitted plan shall include description and details about how the noxious week control will be accomplish. This plan shall be submitted at least two weeks prior to the removal of any noxious weeds. On-going monitoring will not be necessary for the proposed mitigation.

- 8.25. MCC 38.7075 (Y) A final monitoring report shall be submitted to the local government for review upon completion of the restoration, enhancement, or replacement activity. This monitoring report shall document successes, problems encountered, resource recovery, status of any sensitive wildlife/plant species and shall demonstrate the success of restoration and/or enhancement actions. The local government shall submit copies of the monitoring report to the U.S. Forest Service; who shall offer technical assistance to the local government in helping to evaluate the completion of the mitigation plan. In instances where restoration and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the restoration and enhancement guidelines.**

Staff: Monitoring will not be necessary for the proposed mitigation. However a condition will require the applicant to notify this office in writing when the noxious weeds have been removed.

- 8.26. MCC 38.7075 (Z) Mitigation measures to offset impacts to resources and/or buffers shall result in no net loss of water quality, natural drainage, fish/wildlife/plant habitat, and water resources by addressing the following:**

- (1) Restoration and enhancement efforts shall be completed no later than one year after the sensitive resource or buffer zone has been altered or destroyed, or as soon thereafter as is practicable.**

Staff: A condition will require that the mitigation is completed no later than one year after the buffer zone work is done, or as soon thereafter as is practicable.

- (2) All natural vegetation within the buffer zone shall be retained to the greatest extent practicable. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation buffers, livestock management, and noxious weed control. Within five years, at least 75 percent of the replacement vegetation must survive. All plantings must be with native plant species that replicate the original vegetation community.**

Staff: All native plants will be retained, however noxious weeds will be selectively removed. The proposed undergrounding project will be in the road prism and will not disturb buffer vegetation.

- (3) Habitat that will be affected by either temporary or permanent uses shall be rehabilitated to a natural condition. Habitat shall be replicated in composition, structure, and function, including tree, shrub and herbaceous species, snags, pool-riffle ratios, substrata, and structures, such as large woody debris and boulders.**

Staff: The proposed project is with the previously disturbed road prism which is not habitat. The standard is not applicable.

- (4) If this standard is not feasible or practical because of technical constraints, a sensitive resource of equal or greater benefit may be substituted, provided that no net loss of sensitive resource functions occurs and provided the County, in consultation with the appropriate State and Federal agency, determine that such substitution is justified.**

Staff: The proposed project is within the previously disturbed road prism which is not habitat. The standard is not applicable.

- (5) Sensitive plants that will be destroyed shall be transplanted or replaced, to the maximum extent practicable. Replacement is used here to mean the establishment of a particular plant species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods. Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least 75 percent of the replacement plants survive 3 years after the date they are planted**

Staff: The proposed project is within the previously disturbed road prism which is not habitat. The mitigation plan to remove noxious weeds in the stream and wetland buffer areas will be conditioned for the protection of sensitive plant species. No sensitive plant should be harmed as part of this project given these precautions required by conditions. This standard can be met through a condition as follows:

To ensure that sensitive plant species are not harmed, prior to the noxious weed removal portion of this project, the City of Cascade Locks shall retain a botanist qualified to identify sensitive plant species of the Columbia River Gorge. This botanist shall identify and flag all sensitive plants in each buffer areas where noxious weeds will be removed. Noxious weed

removal shall not be conducted within twenty feet of any sensitive plant species. The botanist shall consult with the East Multnomah Soil and Water Conservation District (EMSWCD) on the noxious weed removal plan concerning methods of removal, disposal of noxious weeds and protection of sensitive plant species. To protect sensitive plant species, no mechanized equipment shall be used for the noxious weed removal (hand held tools without motors can be used). If chemical application is used it shall be non- broadcast methods of careful direct application such as hand wicker application and injection methods of the previously cut stems. Chemical treatment shall not be used in any area where sensitive plants could be harmed by them. Prior to any chemical use the botanist shall consult with EMSWCD as to types to be used given location, distance to water, and types of noxious weeds being controlled. During the noxious weed removal, the botanist shall be on-site supervising the work and ensuring the weed removal does not harm any sensitive plant. After the noxious weed removal plan is completed, sensitive plants have been flagged, and at least two weeks prior to any noxious weed removal, the botanist shall notify County Land Use Planning in writing with a description and details of the plan for the noxious weed removal. The botanist shall also notify this office when the project is complete.

- (6) Nonstructural controls and natural processes shall be used to the greatest extent practicable.**
- (a) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.**
 - (b) Stream channels shall not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to hydrologic and biologic functions. Culverts shall only be permitted if there are no practicable alternatives as determined by MCC .38.7075 (Q).**
 - (c) Fish passage shall be protected from obstruction.**
 - (d) Restoration of fish passage should occur wherever possible.**
 - (e) Show location and nature of temporary and permanent control measures that shall be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.**
 - (f) Groundwater and surface water quality will not be degraded by the proposed use. Natural hydrologic conditions shall be maintained, restored, or enhanced in such a manner that replicates natural conditions, including current patterns (circulation, velocity, volume, and normal water fluctuation), natural stream channel and shoreline dimensions and materials, including slope, depth, width, length, cross-sectional profile, and gradient.**
 - (g) Those portions of a proposed use that are not water-dependent or that have a practicable alternative will be located outside of stream, pond, and lake buffer zones.**
 - (h) Streambank and shoreline stability shall be maintained or restored with natural revegetation.**
 - (i) The size of restored, enhanced, and replacement (creation) wetlands shall equal or exceed the following ratios. The first number specifies the required acreage of replacement wetlands, and the second number specifies the acreage of wetlands altered or destroyed.**

Restoration: 2: 1
Creation: 3: 1
Enhancement: 4: 1

Staff: The only impacts of the undergrounding of the electric line are in the previously disturbed road prism. The proposed stream crossing will be mounted on the existing bridges. There will be no direct impact to the streams or the wetland from the undergrounding project other than removal of noxious weeds as mitigation.

- (7) Wetland creation mitigation shall be deemed complete when the wetland is self-functioning for 5 consecutive years. Self-functioning is defined by the expected function of the wetland as written in the mitigation plan. The monitoring report shall be submitted to the local government to ensure compliance. The U.S. Forest Service, in consultation with appropriate state agencies, shall extend technical assistance to the local government to help evaluate such reports and any subsequent activities associated with compliance.**

Staff: This project does not require any wetland creation.

9. **SMA RECREATION RESOURCE REVIEW**

- 9.1. **MCC 38.7085 (A) (1) New developments and land uses shall be natural resource-based and not displace existing recreational use.**

Applicant: *The project will remove a physical impediment for the Oregon Department of Transportation bike trail being constructed.*

Staff: The proposed undergrounding project will not displace any existing recreation use, in fact it will improve recreation in the area by removing an impediment to the bike trail and improve the scenic nature of the area. This standard is met.

- 9.2. **MCC 38.7085 (A) (2) Protect recreation resources from adverse effects by evaluating new developments and land uses as proposed in the site plan. An analysis of both on and off site cumulative effects such as site accessibility and the adverse effects on the Historic Columbia River Highway shall be required.**

Applicant: *No adverse effects.*

Staff: The proposed undergrounding project will not have any negative impacts to recreation resources. This standard is met.

12 **CONCLUSION**

Based on the findings, narrative, and other information provided herein, this application has satisfied the applicable approval criteria as required for Site Review in the National Scenic Area.

13 **EXHIBITS**

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13.1 **Exhibits submitted by the Applicant:**

Exhibit 1.1: NSA application form submitted 11/9/06 (1 page)

Exhibit 1.2: ODOT Permit to Occupy or Perform Operations upon a State Highway submitted 11/9/06 (6 pages)

- Exhibit 1.3: Applicant's narrative submitted 11/9/06 (25 pages)
- Exhibit 1.4: Site plans submitted 11/9/06 (12 pages)
- Exhibit 1.5: Revised Buffer Mitigation Plan 5/14/07 (21 pages)
- Exhibit 1.6: FEMA Region 10 Environmental Review Office, Meeting & Site Visit Memo submitted 11/9/06 (9 pages)
- Exhibit 1.7: FEMA NEPA compliance letter submitted 11/9/06 (9 pages)
- Exhibit 1.8: Vault schematic submitted 11/9/06 (1 page)
- Exhibit 1.9: Letter dated July 19, 2006, Devin L. Simmons, ODFW Habitat Biologist

13.2 Exhibits included by County:

- Exhibit 2.1: County Zoning Maps with subject property labeled (2 pages)

13.3 Exhibits submitted by other parties:

- Exhibit 3.: Email dated 11/28/06 with attachment from Margaret L. Dryden, Heritage Resource Program Manager, Columbia River Gorge National Scenic Area, US Forest Service Heritage Resource Inventory Report (4 pages);
- Exhibit 3.2: Letter dated 3/26/07 from Richard Till, Land Use Law Clerk, Friends of the Columbia Gorge (5 pages).
- Exhibit 3.3: Letter dated May 16, 2007 submitted by Todd Alsbury, ODFW District Fisheries Biologist (1 page)