



MULTNOMAH
County
DEPARTMENT OF COMMUNITY SERVICES
LAND USE PLANNING DIVISION
1600 SE 190TH AVENUE
PORTLAND OREGON 97233

RETURN SERVICE REQUESTED

NOTICE OF NSA DECISION



www.multco.us/landuse ▪ Email: land.use.planning@multco.us ▪ Phone: (503) 988-3043

Case File: T2-2023-16606

Applicant: Terra Lingley,
Oregon Department of Transportation (ODOT)

Proposal: Request for a Post-Emergency/Disaster Response Site Review for vegetation removal and construction of a new culvert.

Location: Within the right of way of Union Pacific Railroad, within the right of way of Highway I-84, and on:

No situs address along E. Historic Columbia River Highway, Corbett

Property ID # R322879

Map, Tax lot: 1N5E -00600

Alt. Acct. # R945130120

Base Zone: Gorge Special Open Space (GSO)

Overlays: None

Key Viewing Areas: Beacon Rock, Cape Horn, Columbia River, Crown Point, Historic Columbia River Highway (including the Historic Columbia River Highway State Trail), Highway I-84 (including rest stops), Larch Mountain (including Sherrard Point) Portland Women's Forum State Park, Washington State Route 14

Landscape Setting: Coniferous Woodlands and River Bottomlands

Decision: Approved

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Tuesday, January 27, 2026 at 4:00 pm.

Issued by:

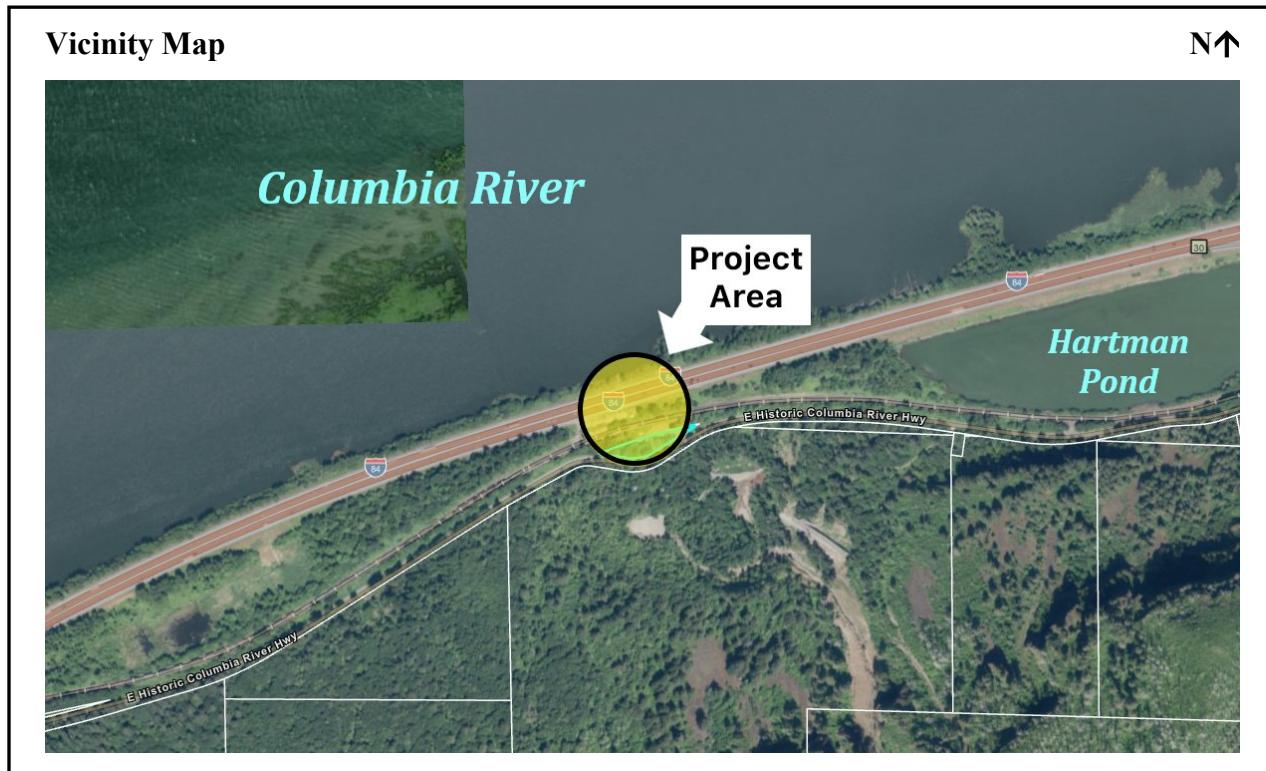
Rithy Khut, Senior Planner

For: Megan Gibb,
Planning Director

Date: Tuesday, January 13, 2026

Opportunity to Review the Record: The complete case file and all evidence associated with this application is available for review by contacting LUP-comments@multco.us. Paper copies of all documents are available at the rate of \$0.71/page.

Opportunity to Appeal: The appeal form is available at www.multco.us/landuse/application-materials-and-forms. Email the completed appeal form to LUP-submittals@multco.us. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. This decision is not appealable to the Columbia River Gorge Commission until all local appeals are exhausted.



Applicable Approval Criteria:

Multnomah County Code (MCC): General Provisions: MCC 38.0015 Definitions, MCC 38.0030 Existing Uses and Discontinued Uses, MCC 38.0110 Tribal Treaty Rights and Consultation

Administration and Procedures: MCC 38.0560 Code Compliance and Applications

Gorge Special Open Space (GSO): MCC 38.2625(D)(5) – Placement of Structures necessary for continued public safety...

NSA Site Review Criteria: MCC 38.7090 Responses to an Emergency/Disaster Event

Copies of the referenced Multnomah County Code sections are available by contacting our office at (503) 988-3043 or by visiting our website at <https://multco.us/landuse/zoning-codes/> under the link **Chapter 38: Columbia River Gorge National Scenic Area**.

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.

Findings of Fact

FINDINGS: Written findings are contained herein. The Multnomah County Code (MCC) criteria and Comprehensive Plan Policies are in **bold** font. Staff analysis and comments are identified as ‘**Staff:**’ and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

1.0 Project Description:

Staff: The applicant requests a National Scenic Area (NSA) Post-Emergency/Disaster Response Site Review for vegetation removal and construction of a new culvert in response to an emergency/disaster event.

2.0 Property Description & History:

Staff: This application is for within the right of way of Union Pacific Railroad and Highway I-84 in addition to the property identified as 1N5E -00600 (referred as the “Project Area”). The project area is located between the Columbia River and East Historic Columbia River Highway in unincorporated east Multnomah County in the Columbia River Gorge National Scenic Area (CRGNSA) outside of the Urban Growth Boundary (UGB). The project area is zoned Gorge Special Open Space (GSO) and has no overlays.

These are the previous land use/building permit associated with the 1N5E -00600:

Permit No.	Final Effective Date	Description
T1-2022-15841	08/23/2022	Request a Floodplain Development permit associated with land use case #T2-2021-15349 that authorized the relocation and alteration of a Mosquito Creek and the construction of two culverts beneath the East Historic Columbia River Highway. The development is to occur on land located within a watercourse.
T2-2021-15349	08/22/2022	Requests a National Scenic Area (NSA) Site Review and Geologic Hazards (GH) permit to authorize ground-disturbing activities to construct diversion berms, a gabion wall, construct a driveway (“access road”), remove vegetation, and install new culverts within the Mosquito Creek basin. The applicant also proposes off-site mitigation at the Mirror Lake Restoration Site.

3.0 Public Comment:

Staff: Staff mailed a notice of application and invitation to comment on the proposed application to the required parties pursuant to MCC 38.0530 (Exhibit C.6). Staff did receive comments during the 21-day comment period and did receive comments regarding Cultural Resources during the 30-day comment period.

3.1 Letter from Steven D. McCoy, Staff Attorney, Friends of the Columbia Gorge (Exhibit D.1)

Staff: Steven D. McCoy submitted a letter on June 28, 2023 on behalf of the Friends of the Columbia Gorge (“Friends”). The letter contained comments intended to identify application

requirements, procedural requirements, resource protection standards, and provide recommendations to the County and the public regarding legal requirements.

3.2 Cultural Resource Survey Determination from Chris Donnermeyer, Heritage Resources Program Manager on behalf of the United States Department of Agriculture: Forest Service (“USFS”) - Columbia River Gorge National Scenic Area (Exhibit D.2)

Staff: Chris Donnermeyer sent a Cultural Resource Survey Determination on behalf of the USFS on July 25, 2023. The Survey stated that, “A Cultural Resource Survey is: Required – Note – ODOT has contracted the cultural resource work and is in-progress” and “A Historic Survey is: Not Required.”

3.3 Cultural Resources Survey from Christoper Noll and Christopher Casserino, Archaeological and Historical Services, Eastern Washington University (Exhibit D.3)

Staff: Christoper Noll and Christopher Casserino submitted Cultural Resources Survey on December 11, 2023. The report contains a Cultural Resources Survey. The report has been redacted for confidentially purposes.

3.4 Letter from Christine Curran, Deputy State Historic Preservation Officer on behalf of the Oregon Parks and Recreation Department (“OPRD”): Oregon Heritage/State Historic Preservation Office (“SHPO”) (Exhibit D.4)

Staff: Christine Curran sent a Letter on behalf of the SHPO on February 23, 2024. The Letter includes, “a combined Finding of No Adverse Effect for historic properties (built environment and archaeological resources) regarding the I-84: Mosquito Creek Emergency Culvert Repair (Project).”

3.5 Letter from Chris Donnermeyer, Heritage Resources Program Manager on behalf of the United States Department of Agriculture: Forest Service (“USFS”) - Columbia River Gorge National Scenic Area (Exhibit D.5)

Staff: Chris Donnermeyer sent a Letter on behalf of the USFS on February 14, 2025. The Letter discusses the review of the Area of Potential Effect (APE) and cultural resource survey report provided by Christoper Noll and Christopher Casserino. Based on the information, “[USFS] concur[s] with the findings of fact of ‘no historic properties affected’.”

4.0 Code Compliance and Applications Criteria:

4.1 § 38.0560 CODE COMPLIANCE AND APPLICATIONS.

Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit or zoning review approval of development or any other approvals authorized by this code for any property that is not in full compliance with all applicable provisions of the Multnomah County Code and/or any permit approvals previously issued by the County.

(A) A permit or other approval, including building permit applications, may be authorized if:

* * *

(2) It is necessary to protect public safety; or

* * *

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

Staff: This standard provides that the County shall not make a land use decision approving development for a property that is not in full compliance with County Code or previously issued County approvals, except in the following instances: approval will result in the property coming into full compliance, approval is necessary to protect public safety, or the approval is for work related to or within a valid easement.

This standard codified in the Columbia River Gorge National Scenic Area Code chapter related to land use application procedures and, by its terms, expressly applies to the application review process. Importantly, a finding of satisfaction of this standard does not mean that a property is in full compliance with the Zoning Code and all prior permit approvals (and, accordingly, does not preclude future enforcement actions relating to uses and structures existing at the time the finding is made). Instead, a finding of satisfaction of this standard simply means that there is not substantial evidence in the record affirmatively establishing one or more specific instances of noncompliance.

For purposes of the current application, there are no known open compliance cases associated with the subject property, and there is no evidence in the record of any specific instances of noncompliance on the subject property. Further, the application is necessary to protect public safety as the applicant, the Oregon Department of Transportation (ODOT) is seeking a Post-Emergency/Disaster Response Site Review. The application is to review response activities that have already been completed, which include vegetation removal and construction of a new culvert to abate the conditions found to exist on in the project area that endanger the life, health, personal property, and safety of the residents and public. *Criterion met.*

5.0 Gorge Special Open Space (GSO) Criteria:

5.1 § 38.2625 REVIEW USES

(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:

(5) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

Staff: The applicant requests a National Scenic Area (NSA) Post-Emergency/Disaster Response Site Review for response activities to remove vegetation and construct a new culvert that occurred in November of 2022. The vegetation removal and construction of the new culvert was necessary

for the protection of essential public services and protection of public existing structures including the East Historic Columbia River Highway, Interstate I-84, and Union Pacific Railroad. The development that occurred is subject to National Scenic Area (NSA) Post-Emergency/Disaster Response Site Review standards, which are discussed in Section 6.0.

6.0 National Scenic Area (NSA) Post-Emergency/Disaster Response Site Review Criteria:

6.1 § 38.7090 RESPONSES TO AN EMERGENCY/DISASTER EVENT

Responses to an emergency/disaster event are allowed in all zoning districts within the Columbia River Gorge National Scenic Area when in compliance with the following standards:

Staff: The applicant is requesting a National Scenic Area (NSA) Post-Emergency/Disaster Response Site Review for response activities that occurred in November of 2022 to remove vegetation and construct a new culvert. As discussed in Section 5.0, the vegetation removal and construction of the new culvert was necessary for the protection of essential public services and protection of public existing structures including the East Historic Columbia River Highway, Interstate I-84, and Union Pacific Railroad. The following standards are discussed below.

6.1.1 (A) General standards for all response activities.

(1) Following emergency/disaster response actions, best management practices (BMPs) to prevent sedimentation and provide erosion control shall be utilized whenever disaster response actions necessitate vegetation removal, excavation, or grading. BMPs may include but are not limited to: use of straw bales, slash windrows, filter fabric fences, sandbags, straw cover, jute netting, etc.

Staff: The applicant utilized Management Practices (BMPs) in their response activities as shown in their Erosion and Sediment Control Plans (Exhibit A.7). *Criterion met.*

(2) Structures or development installed or erected for a temporary use (e.g. sandbags, check dams, plastic sheeting, chain link fences, debris walls, etc.) shall be removed within one year following an emergency event. If it can be demonstrated that the continued use of these devices is necessary to protect life, property, public services or the environment, an extension of no more than two years may be granted by the Planning Director, or the U.S. Forest Service for federal agency actions.

Staff: The applicant installed and erected structures for temporary use during the emergency event. The structures included check dams, inlet protection, sediment barriers/fences and other BMPs (Exhibit A.7). The structures were erected shortly after the emergency/disaster event and were removed after completion of the culvert installation. *Criterion met.*

(3) The new exploration, development (extraction or excavation), and production of mineral resources, used for commercial, private or public works projects, shall not be conducted as an emergency/disaster response activity.

Staff: The emergency/disaster response activity did not include any new exploration, development (extraction or excavation), or production of mineral resources. The response activity was designed to protect ODOT assets. *Criterion met.*

(4) No spoils resulting from grading or excavation activities shall be deliberately deposited into a wetland, stream, pond, lake, or riparian area within the National

Scenic Area as a part of an emergency/disaster response action. The only exception to this is for construction of a fire line during a wildfire, where avoiding the aquatic area or its buffer zone has been considered and determined to not be possible without further jeopardizing life or property.

Staff: The applicant indicated in their narrative that no spoils would be deliberately deposited into a wetland, stream, pond, lake, or riparian area within the NSA (Exhibit A.2). The ground disturbance will result in spoils that were taken to the ODOT's permanent disposal site near I-84 Exit 28 at Coopey Quarry, which is permitted for use by ODOT as a permanent debris storage site. *Criterion met.*

6.1.2 (B) Notification Requirements

(1) Actions taken in response to an emergency/disaster event, as defined in MCC 38.0015, are allowed in all GMA and SMA land use designations, subject to the following notification requirements.

(a) Notification of an emergency/disaster response activity shall be submitted either within 48 hours of the commencement of a response action, or by the next business day following the start of such an action, whichever is sooner. Notification shall be submitted by the party conducting an emergency/disaster response activity or their representatives. In the case of multiple responding parties, the first party to respond shall provide the required notification, unless, upon mutual agreement of responding parties, another responder elects to assume this responsibility.

(b) Notification shall be submitted by mail, fax, telephone, e-mail or in person. If notification occurs by telephone, a hard copy of the notification shall be submitted by mail or in person within 7 days.

(c) Notification shall be furnished to the Planning Director, or the U.S. Forest Service for federal agency actions. If the Forest Service is the action agency, it shall provide notice to the Gorge Commission.

(d) At a minimum, the following information shall be required at the time of notification:

- 1. Nature of emergency/disaster event.**
- 2. Description of emergency/disaster response activities and magnitude of response actions to be taken, if applicable (such as extent of earth movement, erection of structures, etc.).**
- 3. Location of emergency/disaster response activities.**
- 4. Estimated start and duration of emergency/disaster response activities.**
- 5. Contact person and phone number for the parties conducting emergency/disaster response actions.**

(e) Repair and maintenance of an existing serviceable structure to its previously authorized and undamaged condition are not subject to the above referenced notification requirements.

Staff: On November 8, 2022, the applicant notified the Land Use Planning Division by e-mail that an emergency/disaster response activity was to commence (Exhibit A.4). The emergency/disaster response included information about the nature of the emergency/disaster event, description of emergency/disaster response activities and response action to be taken, location, and estimated timeline. *Criteria met.*

(2) Upon notification of an emergency/disaster response action, the Planning Director or the Forest Service shall, as soon as possible:

- (a) Review their natural resource data and notify the contact person for the emergency/disaster response actions of all natural resource sites, and their buffers, that are within or adjacent to the response area or that may be adversely affected by response activities;
- (b) Notify the Oregon Department of Fish and Wildlife of all noticed emergency/disaster response actions, to provide that agency an opportunity to consult with responding agencies during the event, and;
- (c) Notify the U.S. Forest Service (except when the U.S. Forest Service is the notifying agency), State Historic Preservation Office (SHPO), and the Tribal governments of all emergency/disaster response activities. The U.S. Forest Service will review their cultural resource data and notify the contact person for the emergency/disaster response action as soon as possible of all inventoried cultural resource sites, or their buffers, that are within, or adjacent to, emergency/disaster response areas.

Staff: At receipt of the notification, Planning Staff reviewed the natural resource inventory and provided notice to notified Oregon Department of Fish and Wildlife, U.S. Forest Service, State Historic Preservation Office (SHPO), and the Tribal governments (Exhibit A.4). The Gorge Commission, Oregon Department of Transportation, and the Portland State University Institute of Natural Resources were also notified. *Criteria met.*

(3) Upon notification of a response action, the U.S. Forest Service shall, as soon as possible, offer the services of a resource advisor to the agency(ies) conducting the response action. The resource advisor will provide on-site advice to minimize impacts to resources from emergency/disaster response actions.

Staff: Land Use Planning Staff is unsure if the U.S. Forest Service provided the services of a resource advisor.

6.1.3 (C) Post-Emergency/Disaster Response Site Review Application Requirements

(1) Within 30 days following notification, a post-emergency/disaster response application shall be submitted by the party conducting the response action to the Planning Director, or U.S. Forest Service for federal agency actions. In the case of an event with multiple responding parties, the agency providing initial notification as required herein shall submit the application. An exception to this may occur if another responding party, by mutual agreement with the other respondents, elects to submit the application. Requests to extend this submittal deadline may be made in writing and shall include the reason why an extension is necessary. Extensions shall not exceed 30 days in duration.

Staff: On November 8, 2022, the applicant notified the Land Use Planning Division by e-mail that an emergency/disaster response activity was to commence (Exhibit A.4). The application was submitted on February 7, 2023 after two 30-day extensions were requested and granted. The extensions were related to the lack of staff at ODOT during the holiday season and then subsequent illness. *Criterion met.*

(2) Post-emergency/disaster response applications shall only address development activities conducted during an emergency/disaster response. Applications shall specify if development placed during an emergency/disaster event is permanent or temporary. The terms “development activities” and “development” include the disposal of any soil materials associated with an emergency/disaster response action. Applicants shall be responsible for operations under their control and that of other

responders, upon mutual agreement. Responders not agreeing to have another responder address their actions shall be responsible to submit an application for those actions.

Staff: The applicant has submitted a narrative and plans detailing the development activities conducted during the emergency/disaster response (Exhibit A.2 and A.7). The development activities that have been completed included:

1. Clearing of brush and vegetation,
2. Excavating the work pit, and
3. Placing a large culvert under Highway I-84

Criterion met.

(3) Emergency/disaster response actions not involving structural development or ground disturbance with mechanized equipment are exempt from these requirements, except for those actions within 500 feet of a known cultural resource (as determined in the notification process).

Staff: The emergency/disaster response required both structural development and ground disturbance with mechanized equipment; therefore, the response is not exempt from the requirements of MCC 38.7090.

(4) Applications shall include the following information:

- (a) **Applicant's name and address.**
- (b) **Location of emergency/disaster response.**
- (c) **A written description of the emergency/disaster response, including any structures erected, excavation or other grading activities, or vegetation removal.**
- (d) **A map of the project area drawn to scale, at a scale of 1"=200' or a scale providing greater detail. The map shall include:**
 1. North arrow and scale.
 2. Boundaries, dimensions and size of subject parcel(s).
 3. Topography at a contour interval sufficient to describe the terrain of the project site.
 4. Bodies of water, watercourses, and significant landforms.
 5. Existing roads and structures.
 6. New structures placed and any vegetation removal, excavation or grading resulting from the response actions.
- (e) **An exception to the scale requirements of subsection (4)(d) may be granted for an event encompassing an area greater than one square mile. In such cases, a clear sketch map of the entire response action area shall be provided. In addition, a map of 1"=200' or a scale providing greater detail shall be provided that shows a section of the response area exemplifying the specific actions taken.**

Staff: The applicant has submitted a narrative and plans detailing the development activities conducted during the emergency/disaster response as required above (Exhibit A.2, A.3, and A.7).
Criterion met.

6.1.4 (D) Post-Emergency/Disaster Response Site Review

All applications for post-emergency/disaster response Site Review shall be processed pursuant to the procedural provisions of MCC 38.0530 (B) and evaluated for compliance with the standards of MCC 38.7090 (E).

Staff: The application for post-emergency/disaster response Site Review is being processed as a Type II decision and being evaluated for compliance with the standards of MCC 38.7090(E) below. *Criterion met.*

6.1.5 (E) Post-Emergency/Disaster Response Site Review Approval Criteria

Actions taken in all land use designations that are in response to an emergency/disaster event shall be reviewed for compliance with the following standards:

(1) Scenic Resources

(a) Impacts of emergency/disaster response actions shall be evaluated to ensure that scenic resources are not adversely affected. In the GMA, such actions shall be rendered visually subordinate in their landscape setting as visible from key viewing areas to the greatest extent practicable, except for actions located in the Corbett Rural Center zoning district. In the SMAs, such actions shall meet the scenic standard to the greatest extent practicable.

Staff: The emergency/disaster response actions are in the SMA. Those actions can be seen from Beacon Rock, Cape Horn, Columbia River, Crown Point, Historic Columbia River Highway (including the Historic Columbia River Highway State Trail), Highway I-84 (including rest stops), Larch Mountain (including Sherrard Point) Portland Women's Forum State Park, and Washington State Route 14. Further, the actions were conducted in the River Bottomlands and Coniferous Woodlands landscape settings. The scenic standard for GSO in those landscape setting is, "Not Visually Evident."

The actions in this area were primarily ground disturbing activities with the installation of a culvert under the Highway I-84. The ground disturbing activities included vegetation clearing, excavation, forcing a culvert underneath Highway I-84, and then recontouring the development area (Exhibit A.2).

The design of the culvert shows a dark orange/rust colored pipe. A majority of the culvert will be located underneath Highway I-84; not visible from the KVAs (Exhibit A.11). Additionally, the ground disturbance has been reseeded with hydroseed comprised of a Gorge-approved seed mix to ensure that the actions would be not visually evident. Recent Google Streetview imagery shows that all work has been completed (Exhibit B.4). *Criterion met.*

(b) Vegetation shall be used to screen or cover road cuts, structural development, landform alteration, and areas denuded of vegetation, as a result of emergency/disaster response actions.

Staff: The ground disturbance activities related to the emergency/disaster response actions including the areas of structural development, landform alteration, and areas denuded of vegetation were screened, covered, and reseeded (Exhibit A.2). Recent Google Streetview imagery shows that all work has been completed (Exhibit B.4). *Criterion met.*

(c) Areas denuded of vegetation as a result of emergency/disaster response actions shall be revegetated with native plant species to restore the affected areas to its pre-response condition to the greatest extent practicable. Revegetation shall occur as soon as practicable, but no later than one year after the emergency/disaster event. An exception to the one year requirement

may be granted upon demonstration of just cause, with an extension of up to one year.

Staff: As discussed previously, the areas denuded of vegetation were revegetated by applying hydroseed and allowed to return to a more natural state of vegetation naturally over time (Exhibit A.2). Recent Google Streetview imagery shows that all work has been completed (Exhibit B.4). *Criterion met.*

(d) The painting, staining or use of other materials on new structural development shall be used to ensure that the structures are non-reflective, or of low reflectivity, and visually subordinate in their landscape setting as visible from key viewing areas, unless the structure is fully screened from key viewing areas by existing topographic features.

Staff: The applicant provided photos of the structural development that was placed. The structural development, a culvert, is a textured dark orange and appears as a rusted metal (Exhibit A.3 and A.11). Most of the culvert is underground and the portions that are visual meet the scenic standard of not visually evident. *Criterion met.*

(e) Additions to existing structures, resulting from an emergency/disaster response action, which are smaller in total height, bulk or area than the existing structures may be the same color as the existing development. Additions larger than the existing development shall be visually subordinate in their landscape setting as visible from key viewing areas to the greatest extent practicable.

Staff: The applicant is not proposing additions to existing structures; therefore, this criterion is not applicable. *Criterion not applicable.*

(f) In the General Management Area, spoil materials associated with grading, excavation and slide debris removal activities in relation to an emergency/disaster response action, shall comply with the following standards:

* * *

Staff: The response action did not occur in the General Management Area; therefore, these criteria are not applicable. *Criteria not applicable.*

(g) In the Special Management Areas, spoil materials associated with grading, excavation, and slide debris removal activities in relation to an emergency/disaster response action shall comply with the following standards:

1. The spoil materials shall either be:

**a. Removed from the National Scenic Area, or
b. Deposited at a site within the National Scenic Area where such deposition is, or can be, allowed within two years of the emergency.**

2. After the spoils materials are removed, the emergency disposal site shall be rehabilitated to meet the scenic standard.

3. All grading (i.e. contouring) shall be completed within 30 days after the spoils materials are removed.

4. Sites shall be replanted using native plants found in the landscape setting or ecoregion to the maximum extent practicable.

5. All revegetation shall take place within one (1) year of the date an applicant completes the grading.
6. MCC 38.7090 (E) (1) (g) shall take effect on August 3, 2006, or approval of a disposal site, whichever comes first.

Staff: All spoil materials were transported to Coopey Quarry. The quarry site was approved as a site within the NSA where such deposition is, or can be, allowed on March 07, 2019 under land use case #T3-2017-9784 (Exhibit A.2). The ground disturbance activities related to the emergency/disaster response actions including the areas of structural development, landform alteration, and areas denuded of vegetation are screened, covered, and re-seeded. Recent Google Streetview imagery shows that all work has been completed (Exhibit B.4). *Criteria met.*

(2) Cultural Resources and Treaty Rights

- (a) To the greatest extent practicable, emergency/disaster response actions shall not adversely affect cultural resources. Emergency/disaster response actions shall not affect or modify Tribal treaty rights.
- (b) The Forest Service shall determine if a reconnaissance survey or historic survey is necessary within three days after receiving notice that a post-emergency land use application has been received by the Planning Director.
 1. Reconnaissance surveys shall be conducted by the Forest Service and comply with the standards of MCC 38.7045 (D) (1) and (D)(2)(c).
 2. Historic surveys shall be conducted by the Forest Service and shall describe any adverse effects to historic resources resulting from an emergency/disaster response action. Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. Such surveys shall also include original photographs, if available, and maps, and should use archival research, blueprints, and drawings as necessary.
- (c) Following the submittal of a post-emergency land use application, in addition to other public notice requirements that may exist, the Planning Director shall notify the governments of the four Columbia River treaty tribes when:
 1. A reconnaissance survey is required, or
 2. Cultural resources exist in the project area.

All such notices shall include a copy of the site plan required by MCC 38.7090 (C) (4) (d).

The Columbia River treaty tribes shall have 15 calendar days from the date a notice is sent to submit written comments. Written comments should describe the nature and extent of any cultural resources that exist in the project area or treaty rights that exist in the project area and how they have been affected, and identify individuals with specific knowledge about them. The Planning Director shall send a copy of all comments to the Gorge Commission.

(d) When written comments are submitted in compliance with (C) (2) above, the project applicant shall offer to meet within five calendar days with the interested persons. The five day consultation period may be extended upon agreement between the project applicant and the interested persons. A report shall be prepared by the Planning Director following the consultation meeting. Consultation meetings and reports shall comply with the standards of MCC 38.7045 (C) (1) and (2) and 38.0110.

(e) If cultural resources are discovered within the area disturbed by emergency response actions, the project applicant shall have a qualified professional conduct a survey to gather enough information to evaluate the

significance of the cultural resources and what effects the action had on such resources. The survey and evaluation shall be documented in a report that follows the standards of MCC 38.7045 (D) (2)(c) and, (F).

(f) A mitigation plan shall be prepared by the project applicant if the affected cultural resources are significant. The mitigation plan shall be prepared according to the information, consultation, and report standards of MCC 38.7045 (J).

(g) The Planning Director shall submit a copy of all reconnaissance and historic survey reports and treaty rights protection plans to the SHPO and the governments of the four Columbia River treaty tribes. Survey reports shall include measures to mitigate adverse effects to cultural resources resulting from emergency/disaster response actions. The SHPO and governments of the four Columbia River treaty tribes shall have 15 calendar days from the date a survey report is mailed to submit written comments to the Planning Director. The Director shall record and address all written comments in the Site Review decision.

(h) The Planning Director shall make a final decision on whether the emergency/disaster response actions are consistent with the applicable cultural resource goals, policies, and guidelines. If the final decision contradicts the comments submitted by the SHPO, or those submitted by a Tribal government regarding treaty rights, the Director shall justify how an opposing conclusion was reached.

(i) The cultural resource protection process may conclude when it has been determined that Tribal treaty rights have not been affected and one of the following conditions exists:

1. The emergency/disaster response does not require a reconnaissance or historic survey, or a reconnaissance survey demonstrates that no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within 15 calendar days of the date that a notice was mailed.

2. The emergency/disaster response action avoided cultural resources that exist in the project area.

3. Adequate mitigation measures to affected cultural resources have been developed and will be implemented.

4. A historic survey demonstrates that emergency/disaster response actions, and associated development, had no effect on historic buildings or structures because:

- a. The SHPO concluded that the historic buildings or structures are clearly not eligible, as determined by using the criteria in the National Register Criteria for Evaluation (36 CFR 60.4), or

- b. The emergency/disaster response actions did not compromise the historic or architectural character of the affected buildings or structures, or compromise features of the site that are important in defining the overall historic character of the affected buildings or structures, as determined by the guidelines and standards in The Secretary of the Interior's Standards for Rehabilitation [U.S. Department of the Interior 1990] and The Secretary of the Interior's Standards for Historic Preservation Projects [U.S. Department of the Interior 1983].

Staff: The US Forest Service conducted a Cultural Resources Survey to determine if a Cultural Resource Reconnaissance Survey or a Historic Survey is required. The determination found that a

Cultural Resource Reconnaissance Survey was required and a Historic Survey was not required (Exhibit D.2). Opportunity to Comment was sent to the Tribal Governments including a copy of the required documents. No substantive comment was received during the comment period (Exhibit C.4).

Subsequently, after the initial Cultural Resources Survey Determination, the US Forest Service reviewed the report entitled, “Cultural Resources Survey and Monitoring for the I-84, Mosquito Creek Emergency Culvert Repair (MP 30.06) (Key No. M22016), Multnomah County, Oregon; AHS Letter Report 23-08,” prepared by Christopher Noll and Christopher Casserino, EWU Archeological and Historical Surveys (Exhibit D.3). Subsequently, a Request for Concurrence was sent by Christine Curran, Deputy State Historic Preservation Officer, State Historic Preservation Office (Exhibit D.4). After the review, the US Forest Service concurred with the recommendations and stated, “Given the previously disturbed nature of the culvert location, and monitoring efforts to mitigate potential impacts to cultural resources, we concur with the findings of fact of ‘no historic properties affected’ finding.” (Exhibit D.5). *Criterion met.*

(3) Natural Resources

- (a) To the greatest extent practicable, emergency/disaster response actions shall not adversely affect natural resources.**
- (b) Buffer zones for water resources, Priority Habitats or sensitive wildlife sites, and sites containing rare plants, shall be the same as those established in MCC 38.7053.**

1. Water Resources

- a. Emergency/disaster response actions occurring within a water resources buffer zone shall be reviewed by the Oregon Department of Fish and Wildlife. These areas are also referred to in this section as aquatic areas. State biologists will help determine if emergency/disaster response actions have affected or have a potential to affect these aquatic areas or their buffer zones.**
- b. When emergency/disaster response activities occur within water resources or their buffer zones, the applicant shall demonstrate the following:**
 - 1) All reasonable measures have been applied to ensure that the response actions have resulted in the minimum feasible alteration or destruction of the functions, existing contours, vegetation, fish and wildlife resources, and hydrology of wetlands, streams, ponds, lakes, or riparian areas.**
 - 2) Areas disturbed by response activities and associated development will be rehabilitated to the maximum extent practicable.**
- c. Impacts to water resources and their buffers will be offset through mitigation and restoration to the greatest extent practicable. Mitigation and restoration efforts shall use native vegetation, and restore natural functions, contours, vegetation patterns, hydrology and fish and wildlife resources to the maximum extent practicable.**
- d. If the Planning Director, in consultation with the Oregon Department of Fish and Wildlife, determines that the emergency/disaster response actions had minor effects on the water resource or its buffer zone that could be eliminated with**

simple modifications, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. The state biologist, or a Forest Service natural resource advisor (as available) in consultation with the state biologist, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the Planning Director shall incorporate them into the Site Review decision and the aquatic area protection process may conclude.

e. Unless addressed through d. above, mitigation and restoration efforts shall be delineated in a Water Resources Mitigation Plan. Water Resources Mitigation Plans shall satisfy the applicable standards of MCC 38.7053. Water Resources Mitigation Plans shall also satisfy the following:

- 1) Plans shall include a plan view and cross-sectional drawing at a scale that adequately depicts site rehabilitation efforts. Plans will illustrate final site topographic contours that emulate the surrounding natural landscape.
- 2) Planting plans shall be included that specify native plant species to be used, specimen quantities, and plant locations.
- 3) The project applicant shall be responsible for the successful rehabilitation of all areas disturbed by emergency/disaster response activities.

Staff: The applicant responded to the emergency/disaster by conducting ground disturbing activities included vegetation clearing, excavation, forcing a culvert underneath Highway I-84, and then recontouring the development area (Exhibit A.2). The ground disturbance was located within a Mosquito Creek (Exhibit A.3). At the conclusion of the actions, the ground disturbance occurred to recontour the development area and reseed the disturbed areas.

Emergency notification and an Opportunity to Comment were sent to Oregon Department of Fish and Wildlife (ODFW). No comments were provided and Staff is not aware of consultation between ODOT and ODFW.

Based on the information mitigation and restoration effort provided by the Applicant, the natural resources of the site, which include the creek, the riparian area surrounding the creek, and the vegetative areas were returned to their pre-existing state prior to the emergency. As such, the actions did not adversely affect the natural resources as shown in recent Google Streetview imagery (Exhibit B.4). *Criterion met.*

2. Wildlife Habitat

- a. Emergency/disaster response actions occurring within 1,000 feet of a Priority Habitat or sensitive wildlife or site shall be reviewed by the Oregon Department of Fish and Wildlife. State wildlife biologists will help determine if emergency/disaster response actions have affected or have a potential to affect a Priority Habitat or sensitive wildlife site.
- b. Site plans for emergency/disaster response sites shall be submitted by the Planning Director to the Oregon Department

of Fish and Wildlife for review as required by MCC 38.7065 (C) (1) and (2).

Staff: At the time an emergency/disaster was declared notification was sent to Oregon Department of Fish and Wildlife (Exhibit C.2). No comments were provided. Subsequently, an Opportunity to Comment was also sent on June 14, 2023, which also saw no comment from Oregon Department of Fish and Wildlife (Exhibit C.6). *Criterion met.*

c. The wildlife protection process may terminate if the Planning Director, in consultation with the Oregon Department of Fish and Wildlife, determines:

- 1) The Priority Habitat or sensitive wildlife site was not active, or**
- 2) The emergency/disaster response did not compromise the integrity of the Priority Habitat or sensitive wildlife site or occurred at a time when wildlife species are not sensitive to disturbance.**

Staff: As the emergency/disaster response is complete, the wildlife protection process has been terminated, as it did not compromise the integrity of the wildlife area as it occurred at a time when wildlife species are not sensitive to disturbance. *Criterion met.*

d. If the Planning Director, in consultation with the Oregon Department of Fish and Wildlife, determines that the emergency/disaster response activities had minor effects on the Priority Habitat or sensitive wildlife site that could be eliminated with simple modifications, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. The state wildlife biologist, or a U.S. Forest Service natural resource advisor (as available) in consultation with the state wildlife biologist, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the Planning Director shall incorporate them into the Site Review decision and the wildlife protection process may conclude.

Staff: As no comments were provided by Oregon Department of Fish and Wildlife, therefore no modifications will be required. *Criterion met.*

* * *

3. Deer and Elk Winter Range

* * *

Staff: The development activities conducted during the emergency/disaster response were not located within a deer and elk winter range; therefore, this criterion is not applicable. *Criterion not applicable.*

4. Rare Plants

* * *

Staff: The development activities conducted during the emergency/disaster response were not located within 1,000 feet of sensitive plants; therefore, these criteria are not applicable. *Criteria not applicable.*

(4) Recreational Resources

- (a) To the greatest extent practicable, emergency/disaster response actions shall not adversely affect recreational resources.**
- (b) Mitigation measures shall be implemented to mitigate any adverse effects on existing recreation resources caused by emergency/disaster response activities to the maximum extent practicable.**

Staff: The development activities conducted during the emergency/disaster response were to protect existing public structures including the East Historic Columbia River Highway, Interstate I-84, and Union Pacific Railroad. Although there are no Recreational Resources at the site of the emergency/disaster response, the removal response activities will ensure that recreation resources within the area are accessible to the public (Exhibit A.2). The actions will result in no adverse effects to recreational resources. *Criteria met.*

7.0 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Post-Emergency/Disaster Response Site Review to authorize development that has occurred in the Gorge Special Open Space (GSO) zone.

8.0 Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

‘D’ Comments Received

Exhibits with an ‘*’ have been reduced in size and included with the mailed decision. All exhibits are available for digital review by sending a request to LUP-comments@multco.us.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	Application Form	02/08/2023
A.2	9	Narrative	02/08/2023
A.3	1	Maps of Natural Resources	02/08/2023
A.4	6	Email between Planning Director and ODOT	02/08/2023
A.5	1	ODOT Emergency Repair Letter	02/08/2023
A.6	2	Detailed Damage Inspection Report	02/08/2023

A.7*	14	Plans and Elevations <ul style="list-style-type: none"> ▪ *Sheet No. A01 – Title Sheet ▪ Sheet No. A02 – Index of Sheet Cont. ▪ Sheet No. BA01 – Typical Sections ▪ *Sheet No. C01 – General Construction ▪ Sheet No. CA01A – Profile ▪ Sheet No. EA01 – Traffic Control Plan ▪ *Sheet No. FB01 – Erosion and Sediment Control ▪ Sheet No. GB01 – Geotechnical Data ▪ *Sheet No. HB01 – Culvert Plan ▪ Sheet No. HB02 – Pipe Profiles ▪ Sheet No. HB03 – Pipe Data ▪ Sheet No. HB04 – Culvert Details ▪ Sheet No. HD01 – Temporary Water Management ▪ Sheet No. HD02 – Temporary Water Management Details 	02/08/2023
A.8	5	Photos of the site pre-emergency repair	02/08/2023
A.9	5	State of Oregon Parks and Recreation Department: Right of Entry Permit: Benson SRA-08-2022 Multnomah County	02/08/2023
A.10	12	Extension Email for Application Submittal	02/08/2023
A.11	3	Photo of Culvert and Paint Color Sample	02/08/2023
‘B’	#	Staff Exhibits	Date
B.1	2	Assessment and Taxation Property Information for 1N5E -00600 (Alt Acct #R945130120 / Property ID #R322879)	02/08/2023
B.2	1	Current Tax Map for 1N5E	02/08/2023
B.3	1	Aerial Photo taken on August 9, 2025	12/30/2025
B.4	3	Google Streetview Imagery taken on June of 2025	12/30/2025
‘C’	#	Administration & Procedures	Date
C.1	1	Emergency Notification from Oregon Department of Transportation (ODOT)	10/24/2022
C.2	13	Partner Agency Notification from Multnomah County Land Use Planning Division	11/08/2022
C.3	3	Incomplete letter	03/10/2023
C.4	1	Applicant’s acceptance of 180-day clock	03/14/2023
C.5	1	Complete letter (day 1)	04/19/2023
C.6	18	Opportunity to Comment	06/14/2023
C.7	24	Decision	01/13/2026
‘D’	#	Comments	Date
D.1	3	Letter from Steven D. McCoy, Staff Attorney, Friends of the Columbia Gorge	06/28/2023

D.2	2	Cultural Resource Survey Determination from Chris Donnermeyer, Heritage Resources Program Manager, USDA Forest Service Columbia River Gorge National Scenic Area	07/25/2023
D.3	23	Cultural Resources Survey from Christopher Noll and Christopher Casserino, Archaeological and Historical Services, Eastern Washington University (<i>redacted</i>)	12/11/2023
D.4	7	Letter from Christine Curran, Deputy State Historic Preservation Officer on behalf of the Oregon Parks and Recreation Department (“OPRD”): Oregon Heritage/State Historic Preservation Office (“SHPO”) (<i>redacted</i>)	02/23/2024
D.5	27	Letter of concurrence from Chris Donnermeyer, Heritage Resources Program Manager, USDA Forest Service Columbia River Gorge National Scenic Area	02/14/2025

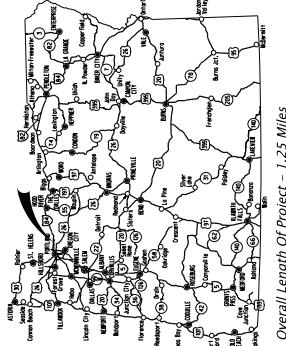
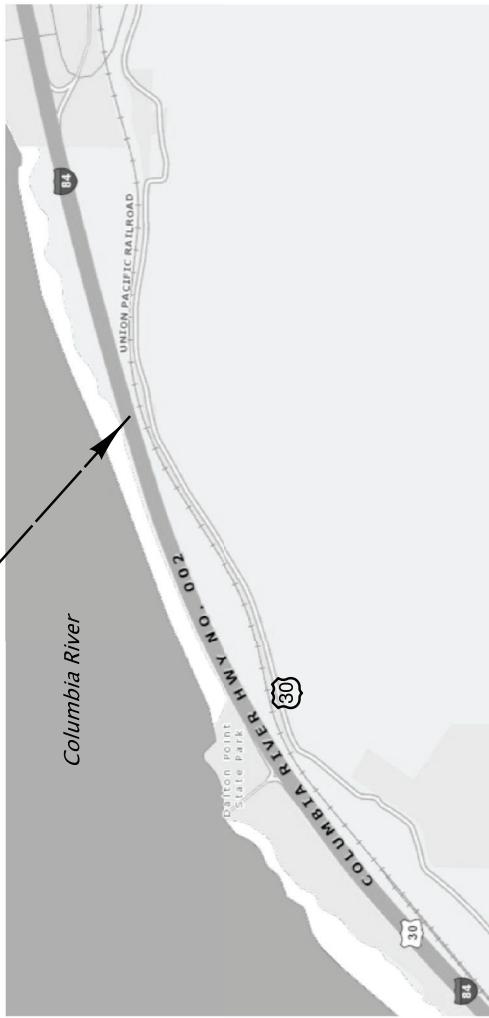
STATE OF OREGON
DEPARTMENT OF TRANSPORTATION
 PLANS FOR PROPOSED PROJECT
SCOPE OF WORK
DRAINAGE

**I-84: M.P. 30.06 MOSQUITO CREEK
 CULVERT REPLACEMENT PROJECT**

COLUMBIA RIVER HIGHWAY
 MULTNOMAH COUNTY
 SEPTEMBER 2022

INDEX OF SHEETS	
SHEET NO.	DESCRIPTION
A01	Title Sheet
A02	Index Of Sheets Cont. & Std. Dwg. Nos.

LOCATION OF PROJECT
 (M.P. 30.06)



ATTENTION:

Oregon Law Requires You To Follow Rules Adopted
 By The Oregon Utility Notification Center.
 Those Rules Are Set Forth In OAR 052-001-0001
 Through OAR 052-001-0100.
 You May Obtain Copies Of The Rules By Calling
 The Center (Note: The Telephone Number For
 The Oregon Utility Notification Center Is
 (503) 232-1987).



OREGON TRANSPORTATION COMMISSION

Chair
 Robert Van Brocklin
 Commissioner
 Alvin Simpson
 Commissioner
 John B. Thompson
 Commissioner
 Sharon Smith
 Commissioner
 Marilyn Burke
 Commissioner
 Christopher W. Strickler
 Director of Transportation

These plans were developed using AASHTO design standards.
 Exceptions to these standards, if any, have been submitted
 and approved by the ODOT Chief Engineer or their delegated
 authority.

Ted Miller

Approving Authority

Theodore Miller - RI

Signature & date

Print name and title

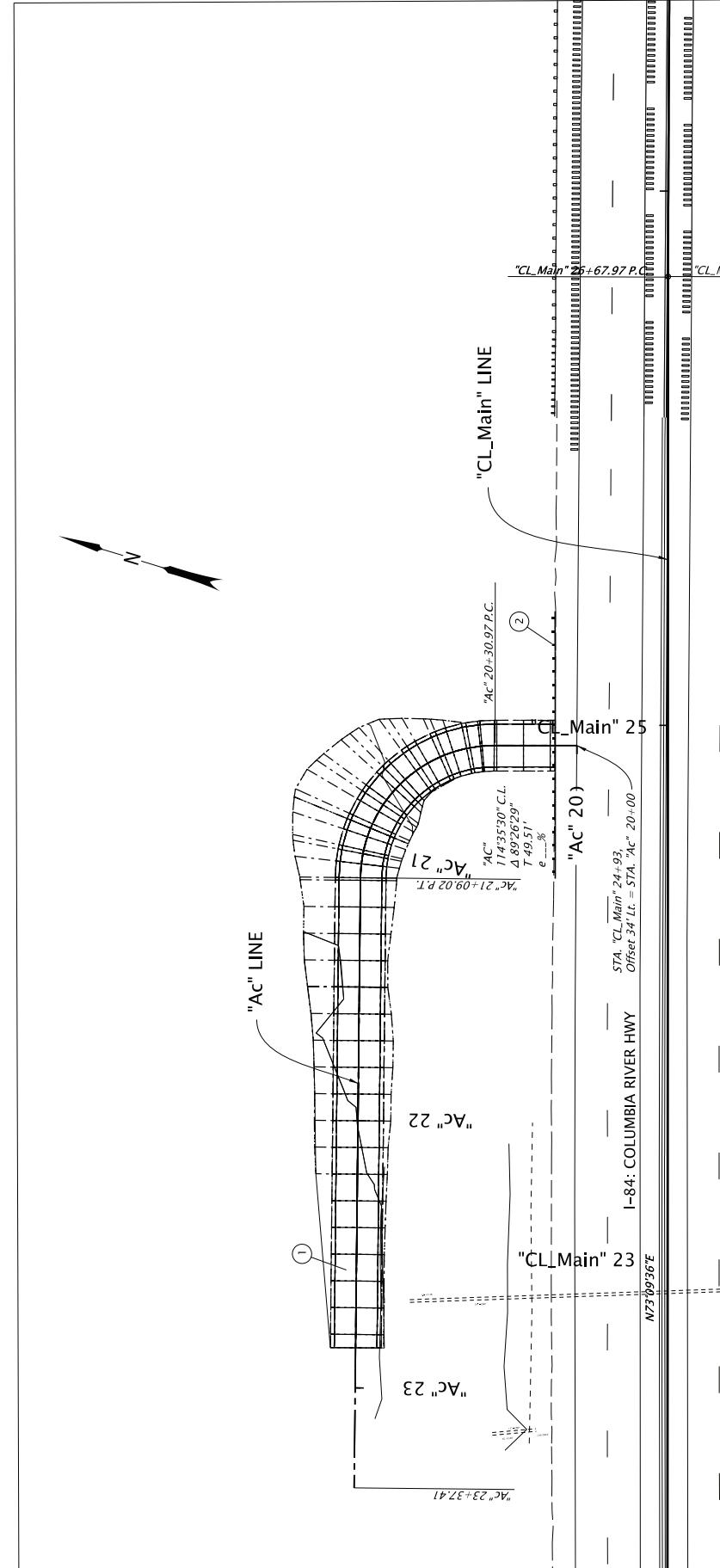


I-84: M.P. 30.06 MOSQUITO CREEK
 CULVERT REPLACEMENT PROJECT
 COLUMBIA RIVER HIGHWAY
 MULTNOMAH COUNTY

FEDERAL HIGHWAY ADMINISTRATION	PROJECT NUMBER	SHEET NO.
OREGON DIVISION	M22016	A01

FINAL ELECTRONIC DOCUMENT
 AVAILABLE UPON REQUEST

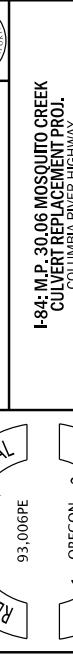
Exhibit A.7



Construction Notes:

① Const. access road
(for details see sh. B401 & C01A)

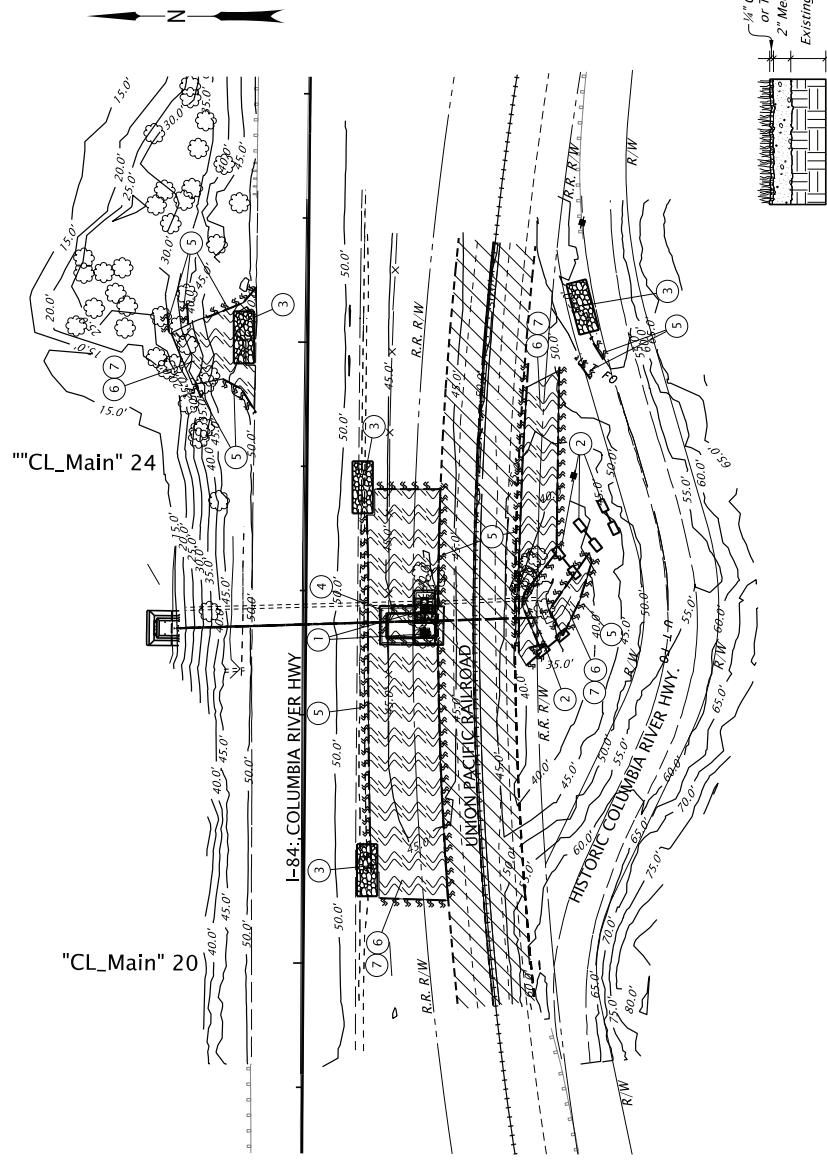
② Sta. "CL Main" 24+50 to Sta. "CL Main" 25+50 Lt.
Remove exg. guardrail - 100'
Const. guardrail - 100' (Type 2A)
(See dng. nos. RD400 & RD402)



RENEWS: 12-31-2022
FINAL ELECTRONIC DOCUMENT
AVAILABLE UPON REQUEST

CONSTRUCTION NOTES

- ① Const. inlet protection
(Type 3)
(See drg. RD1010)
- ② Const. check dam
(Type 1)
(See drg. no. RD1005)
- ③ Const. construction entrance—
As directed apply compost blanket
and seed in entrance location(s)
following removal.
(See drg. no. RD1000)
- ④ Inst. sediment barrier
(Type 8)
(See drg. no. RD1032)
- ⑤ Inst. sediment barrier
(Type 9)
(See drg. RD1033)
- ⑥ Inst. compost blanket 2" thk.
as directed
(See detail, this sheet)
- ⑦ Apply Permanent Seeding



EROSION AND SEDIMENT CONTROL GENERAL NOTES

The construction, adjustment, maintenance, and upgrading of these Erosion and Sediment Control measures is the responsibility of the contractor for the duration of the project to comply with Section 00280 of the Oregon Standard Specifications for Construction and the NFDES 1200-CA permit.

Erosion and Sediment Control measures shown in this plan are for anticipated site conditions. Adjust or upgrade these measures for unexpected storm events to ensure that sediment and sediment-laden water does not leave the site.

Develop a revised plan of the Erosion and Sediment Control measures shown as required by Section 00280, Oregon Standard Specifications for Construction. Implement this plan for all clearing and grading activities and in segments applicable to each staging phase. Construct in such a manner so as to ensure that sediment and sediment-laden water does not enter the roadway or drainage system, or violate applicable water standards.

Install measures within the right-of-way unless directed otherwise.

STANDARD DRAWINGS

RD1000	Construction Entrances
RD1005	Check Dams Type 1, 3 and 4
RD1006	Check Dams Type 2 and 6
RD1010	Inlet Protection Type 2, 3, 6, 7/10 and 11
RD1015	Inlet Protection Type 4
RD1030	Sediment Barrier Type 2, 3 and 4
RD1031	Sediment Barrier Type 5 and 6
RD1032	Sediment Barrier Type 8
RD1033	Sediment Barrier Type 9
RD1040	Sediment Fence
RD1045	Temporary Silt Basin / Energy Dissipator
RD1050	Slope and Channel Matting
RD1060	Tire Wash Facility Type 1 and 2
RD1065	Sediment Trap
RD1070	Concrete Truck Wash Out

REGISTERED	424	• Magnus P. Bernhardt OREGON 05/14/99 LANDSCAPE ARCHITECT
	• Julie Reitz	

I-84: M-P-30.06 MOSQUITO CREEK CULVERT REPLACEMENT PROJ. COLUMBIA RIVER HIGHWAY MULTNOMAH COUNTY

Designer: Magnus Bernhardt Drafter: Julie Reitz Reviewer: Rob Marshall Checker: N/A
--

EXPIRES: 05-31-2023 FINAL ELECTRONIC DOCUMENT AVAILABLE UPON REQUEST
--

SHEET NO. FB01

Graphic symbols are approximate. Place Erosion Control measures as required or directed.

COMPOST EROSION BLANKET WITH PERMANENT SEEDING

STANDARD DRAWINGS

OREGON DEPARTMENT OF TRANSPORTATION
--

EROSION AND SEDIMENT CONTROL

Sec.12 & 13, T.1S, R.5E, W.M.

