

# NOTICE OF NSA DECISION



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**Case File:** T2-2025-0027

**Applicant:** Terra Lingley, ODOT

**Proposal:** Request for a post-emergency National Scenic Area Site Review to excavate a failing retaining wall for the Historic Highway, repair the gabion basket mechanically stabilized earth wall, and install a new drainage system.

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**Location:** E Historic Columbia River Highway & adjacent to 1N4E36A -00100 (R944360510)

**Base Zone:** Gorge Special Open Space (GSO)

**Overlays:** Geologic Hazard (GH)

**Key Viewing Areas:** State Route – 14, Portland Women’s Forum, Larch Mountain Road, Interstate – 84, Historic Columbia River Highway, Columbia River

**Landscape Setting:** Coniferous Woodlands

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**Decision:** **Approved with Conditions**

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

**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](mailto: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](http://www.multco.us/landuse/application-materials-and-forms). Email the completed appeal form to [LUP-submittals@multco.us](mailto: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.

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**Issued by:**

A handwritten signature in black ink, appearing to read "Izze Liu".

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Izze Liu, Planner

**For:** Megan Gibb,  
Planning Director

**Date:** March 13, 2026



**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

GSO Zone: MCC 38.2625 Review Uses, (D)(5) Placement of structures necessary for continued public safety

NSA Site Review Criteria – Responses to An Emergency/Disaster Event: 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**

**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. 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. [MCC 38.0660(B)]
2. No new ground disturbing activities or additional work shall be started without first obtaining a new NSA Site Review approval. All emergency work listed in the Post Emergency/Disaster Response application has been completed. [MCC 38.2615]
3. 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 by March 20, 2026. [MCC 38.7090(A)(2)]

**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 Oregon Department of Transportation requests a post-emergency National Scenic Area Site Review. The scope of work included the excavation of a failing retaining wall for the Historic Highway, repair of the gabion basket earth wall and the installation of a new drainage system.

### 2.0 Property Description & History:

**Staff:** The subject property is zoned Gorge Special Open Space and is topographically visible from the following key viewing areas: State Route – 14, Portland Women’s Forum, Larch Mountain Road, Interstate – 84, Historic Columbia River Highway, and the Columbia River.

### 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.2). 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 The State Historic Preservation Office provided comments on January 27, 2026 and February 23, 2026 (Exhibits D.1 & D.3).

**Staff:** The State Historic Preservation Office has confirmed that there are no identified archaeological objects or sites, and no Native American cairn, burial, human remains, sacred objects and objects of cultural patrimony in or adjacent to the project area based on their records. In addition, SHPO provided instructions if any archaeological artifacts are found during construction, including, advise on having an Inadvertent Discovery Plan in place during construction.

#### 3.2 The Friends of the Columbia Gorge provided comments on February 13, 2026 (Exhibit D.2).

**Staff:** The Friends of the Columbia Gorge provided a letter intended to identify application requirements, procedural requirements, resource protection standards, and provide recommendations to the County and the public regarding legal requirements.

### 4.0 Code Compliance and Applications Criteria:

#### 4.1 MCC 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:**

\* \* \*

**(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. *This criterion is met.*

**5.0 Gorge Special Open Space (GSO) Criteria:**

**5.1 MCC 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 improvement 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 proposed project is in response to a landslide at the east end of the east viaduct, north of the Historic Columbia River Highway, on milepost 8.9. The emergency response included the excavation of the existing roadway, removal of the damaged gabion basket wall, and reconstruction of the wall and drainage system to stabilize the surface of the highway.

**6.0 National Scenic Area (NSA) Site Review Criteria:**

**6.1 MCC 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:**

**(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 Best Management Practices (BMPs) in their initial response activities. The BMPs include the use of sediment barriers, and seeding and mulching when the work is complete (Exhibits A.2 & A.4).

**(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 stated that all temporary structures will be removed within one year following the emergency event (Exhibit A.2). *As conditioned, this criterion is 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 contain any new exploration, development (extraction or excavation), or production of mineral resources. *This criterion is not applicable.*

**(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 that no spoils will be deposited in a wetland, stream, pond, lake or riparian area (Exhibit A.2). *Criterion met.*

## **(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:** The Oregon Department of Transportation submitted an emergency notification to the Planning Director on March 19, 2025 and began work in response to the emergency event on March 20, 2025 (Exhibit A.2). The notification email contained all of the information required above. *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.**

**(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:** Notification was sent to the U.S. Forest Service, Oregon Department of Fish and Wildlife, State Historic Preservation Office, and the Tribal governments during the Opportunity to Comment period (Exhibit C.2). The State Historic Preservation Office confirmed that neither a Cultural Resource Survey nor a Historical Survey is required for the project scope (Exhibit D.1). *Criteria met.*

#### **(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:** The Oregon Department of Transportation submitted an emergency notification to the Planning Director on March 19, 2025. On April 17, 2025, the applicant requested a 30-day extension for the application submittal (Exhibit A.2). The application was submitted on May 19, 2025. The application complies with MCC 38.2425(I) which allows for post-emergency response activities when a land use application is submitted within 12-months of the date of the emergency event.

**(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 submitted a narrative and plan set detailing the activities conducted during the emergency/disaster response (Exhibits A.1 - A.5). The development activities that were completed included the excavation of the existing roadway, removal of the damaged gabion basket wall, and reconstruction of the wall and drainage system to stabilize the surface of the highway. *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:**

\* \* \*

**(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 submitted a narrative and plan set detailing the development activities conducted during the emergency/disaster response as required above (Exhibits A.1 - A.5). *Criterion met.*

**(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 is being processed as a Type II decision and is evaluated for compliance with the standards of MCC 38.7090(E), which is discussed below.

**(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 development activities included the excavation of the existing roadway, removal of the damaged gabion basket wall, and reconstruction of the wall and drainage system to stabilize the surface of the highway. As part of the repair/replacement of the gabion baskets, the applicant reused the materials in the basket, and dark earth-tone wires were used to re-create the gabion basket faces. Replacement drainage pipes are dark, earth-tone colors. In addition, the applicant states that the location of the emergency and the emergency actions are not visible from the KVAs due to the distance, topography and existing vegetation (Exhibit A.2). *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.**

**(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:** The existing vegetation in front of the gabion baskets were not removed and will continue to provide screening (Exhibit A.2). *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 wiring on the gabion baskets and drainage piping were finished with dark, non-reflective earth-tone colors (Exhibit A.2). *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 replacement gabion basket wall was expanded from the original footprint to be able to resist the landslide movement. As stated in prior findings, the location of the emergency and the emergency actions are not visible from the KVAs due to the distance, topography and existing vegetation (Exhibit A.2). *Criterion met.*

**(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:**

\* \* \*

**Staff:** The emergency response did not generate spoils because the excavated materials were reincorporated back into the wall system (Exhibit A.2). *These criteria are not applicable.*

## **(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.**

\* \* \*

**Staff:** A reconnaissance or historic survey is not required for this project (Exhibits D.1 & D.2).

## **(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.**

\* \* \*

**Staff:** ODOT conducted field surveys for biological resources on March 21, 2025, and a natural resources memo was provided following the field surveys (Exhibit A.5). The memo confirms that the proposed repair to the highway will not cause any adverse impacts to sensitive or rare plant or animal species or their populations because the project site does not contain any sensitive biological resources or habitat types. In addition, ODOT has confirmed there are no wetlands or waterways within the project area. *Criteria 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.**

\* \* \*

**Staff:** The natural resources memo confirms that the project site is not within 1,000 feet of sensitive biological resources or habitat types (Exhibit A.5). *Criteria not applicable.*

### **3. Deer and Elk Winter Range**

**Any fencing permanently erected within deer and elk winter range, as a result of an emergency/disaster response, shall satisfy the standards of MCC 38.7065 (E).**

**Staff:** No fencing is proposed. *Criterion not applicable.*

### **4. Rare Plants**

**a. Emergency/disaster response actions occurring within 1,000 feet of a rare plant, shall be reviewed by the Oregon Biodiversity Information Center. State heritage staff will help determine if emergency/disaster response actions have occurred within the buffer zone of a rare plant.**

\* \* \*

**Staff:** The natural resources memo confirms that the project site is not within 1,000 feet of sensitive biological resources or habitat types (Exhibit A.5). *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:** ODOT anticipated traffic congestion due to the highway closure but they worked with the Oregon Park and Recreation Department as well as other tourism partners to alert the public about the road closure. There were no recreational resources within the project site that would be impacted by the emergency/disaster response. *These criteria are met.*

## **7.0 Conclusion**

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Post-Emergency National Scenic Area Site Review for the post-emergency work related to the repair and replacement of the gabion basket wall and drainage system in the GSO zone. This approval is subject to the conditions of approval established in this report.

## **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](mailto:LUP-comments@multco.us).

<b>Exhibit #</b>	<b># of Pages</b>	<b>Description of Exhibit</b>	<b>Date Received / Submitted</b>
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A.1	2	Application Form	05.19.2025
A.2	48	Narrative	05.19.2025
A.3	2	Site Plans	05.19.2025
A.4	20	Construction Drawings	05.19.2025
A.5	6	Natural Resources Memo	05.19.2025
<b>'B'</b>	<b>#</b>	<b>Staff Exhibits</b>	<b>Date</b>
B.1	1	Current Tax Map for 1N4E36A	05.19.2025
<b>'C'</b>	<b>#</b>	<b>Administration &amp; Procedures</b>	<b>Date</b>
C.1	1	Complete Letter	07.25.2025
C.2	31	Opportunity to Comment	01.26.2026
C.3	11	Decision	
<b>'D'</b>	<b>#</b>	<b>Comments</b>	<b>Date</b>
D.1	2	State Historic Preservation Office Comments	01.27.2026
D.2	6	Friends of the Gorge Comments	02.13.2026