

Return Address: Bart Vervloet
Columbia Gorge Windsurfing Association
PO Box 182
Hood River, OR 97031

Skamania County
Community Development Department

Building/Fire Marshal • Environmental Health • Planning
Skamania County Courthouse Annex
Post Office Box 1009
Stevenson, Washington 98648
Phone: 509-427-3900 Inspection Line: 509-427-3922

ADMINISTRATIVE DECISION

APPLICANT: Columbia Gorge Windsurfing Association

FILE NO.: NSA-15-42

DESCRIPTION: Improvements to an existing public access point into the Columbia River at Spring Creek Fish Hatchery by cutting steps (approximately 6-8 ft. wide) into the natural bedrock along the shoreline.

LOCATION: Spring Creek Fish Hatchery State Park, SR 14, Underwood, Section 28 of T3N, R10E, W.M. and identified as Skamania County Parcel #03-10-28-0-0-0300-00.

ZONING: General Management Area – Public Recreation (PR) and Commercial Recreation (CR)

DECISION: Based upon the record and the Staff Report, the applicant's proposal, described above, is found to be consistent with SCC Title 22 and is hereby **APPROVED** subject to the conditions set forth below.

Approval of this request does not exempt the applicant or successors in interest from compliance with all other applicable local, state, and federal laws.

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CONDITIONS OF APPROVAL:

The following conditions are required to ensure that the subject request is consistent with Skamania County Code Title 22. **THIS DOCUMENT, OUTLINING THE CONDITIONS OF APPROVAL, MUST BE RECORDED BY THE APPLICANT IN THE DEED RECORDS OF THE SKAMANIA COUNTY AUDITOR** in order to ensure notice of the conditions of approval to successors in interest. SCC §22.06.120(C)(2).

1. As per SCC §22.06.120(C)(2), this Administrative Decision **SHALL BE RECORDED** by the applicant in the County deed records prior to commencement of the approved project.
2. All developments shall be consistent with the enclosed site plan, unless modified by the following conditions of approval. If modified, the site plan shall be consistent with the conditions of approval.
3. The applicant shall adhere to the Tribal Treaty Rights Plan dated August 18, 2016. Specifically, the applicant shall enact the following items to avoid effects to tribal treaty rights:
 - a. The applicant shall perform mitigation by removing the illegal constructed concrete steps at Spring Creek Hatchery State Park, located east of the improved access point. Removal shall be done in accordance with the requirements of SCC Chapter 22.20.
 - b. The applicant shall coordinate with Washington State Parks and Native American tribes to place educational information at Spring Creek Hatchery State Park, informing users of the right of tribal members to retain access to usual and accustomed fishing places along the Columbia River and to ensure the safety and security of all parties and equipment. Any signage shall be posted on existing approved signage or kiosks, or otherwise by consistent with SCC Title 22.
 - c. The applicant shall publish educational information on the website of the Columbia Gorge Windsurfing Association, informing users of the right of tribal members to retain access to usual and accustomed fishing places along the Columbia River and to ensure the safety and security of all parties and equipment. This information should be developed after coordination with Native American Tribes and shall be available on the website for a minimum of two years.
 - d. The applicant shall publish educational information in the newsletter of the Columbia Gorge Windsurfing Association, informing users of the right of tribal members to retain access to usual and accustomed fishing places along the Columbia River and to ensure the safety and security of all parties and equipment. This information should be developed after coordination with Native American Tribes and shall be printed in the next available publication following project completion.
4. All structures, except fences, including eaves, awnings and overhangs shall meet the following setbacks: **Front yard:** 50 feet from the centerline of the street or road or 20 feet from the front property line, whichever is greater. **Side yard:** 20 feet. **Rear yard:** 20 feet. Setbacks are established from property lines, not fence lines. If any question arises regarding the location of the property lines, the applicant shall be required to hire a professional land surveyor to locate the property lines and mark them with temporary staking prior to a building permit being issued. Staking must remain during construction and all building inspections.
5. Project applicants shall be responsible for the proper maintenance and survival of any planted vegetation required under this chapter.

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6. The Community Development Department will conduct at least two site visits during construction, one siting inspection to verify the staked location of the steps prior to any ground disturbance taking place; and a second to be conducted after all work has been completed. Each inspection may take up to four business days from the time of calling for the inspection. Inspections should be arranged by calling the Community Development inspection line at 509-427-3922 or by emailing permitcenter@co.skamania.wa.us.
7. The proposed steps shall be carved from the existing natural bedrock.
8. Construction shall take place only during low pool levels of the Bonneville Dam. The applicant shall coordinate with the Army Corps of Engineers Reservoir Control Center to schedule the work during low pool level.
9. Best Management Practices shall be implemented to protect the river, fish, plants, and other wildlife.
10. No portion of tools or equipment with the capacity to leak fuels or hazardous materials into the water shall be allowed below the pool level at time of construction. Any equipment or tools required for construction that has fuel, oil, or other materials that might leak will be kept at least 25 ft. from the pool level and stored upland on impervious surfaces when not in use.
11. The applicant shall install a sediment boom within 1 ft. of the shoreline prior to developing the stone steps.
12. All natural vegetation shall be retained to the greatest extent practicable, including aquatic and riparian vegetation.
13. Disturbed areas shall be rehabilitated with native vegetation, and to its natural condition to the maximum extent practicable.
14. A silt sock shall be in place below the existing concrete steps during removal.
15. All restoration work including removal of the unauthorized concrete stairs shall be completed within 90 days of project initiation. Upon completion the applicant shall provide before/after photos of the rehabilitation to the County.
16. It is recommended that the applicant have an archaeological monitor on site during all ground disturbing project activities.
17. The following procedures shall be effected when cultural resources are discovered during construction activities:
 - a. Halt Construction. All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.
 - b. Notification. The project applicant shall notify the Administrator and the Gorge Commission within twenty-four (24) hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within twenty-four (24) hours.
 - c. Survey and Evaluations. The Gorge Commission shall survey the cultural resources after obtaining written permission from the landowner and appropriate permits from the DAHP

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(See Revised Code of Washington 27.53). It shall gather enough information to evaluate the significance of the cultural resources. The survey and evaluation shall be documented in a report that generally follows the provisions in Section 22.22.030 of this Chapter.

Based upon the survey and evaluation report and any written comments, the Administrator shall make a final decision on whether the resources are significant. Construction activities may recommence if the cultural resources are not significant.

- d. Mitigation Plan. Mitigation plans shall be prepared according to the information, consultation and report provisions contained in Section 22.22.050 of this Chapter. Construction activities may recommence when conditions in the mitigation plan have been executed.

18. The following procedures shall be effected when human remains are discovered during a cultural resource survey or during construction. Human remains means articulated or disarticulated human skeletal remains, bones or teeth, with or without attendant burial artifacts.

- a. Halt of Activities. All survey, excavation and construction activities shall cease.
- b. Notification. Local law enforcement officials, the Administrator, the Gorge Commission, and the Indian tribal governments shall be contacted immediately.
- c. Inspection. The county coroner, or appropriate official, shall inspect the remains at the project site and determine if they are prehistoric/ historic or modern. Representatives of the Indian tribal governments shall be contacted immediately and have an opportunity to monitor the inspection.
- d. Jurisdiction. If the remains are modern, the appropriate law enforcement official shall assume jurisdiction and the cultural resource protection process may conclude.
- e. Treatment. The procedures set out in RCW 27.44 and 68.05 shall generally be implemented if the remains are prehistoric/ historic. If human remains will be reinterred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report requirements set out in Section 22.22.050 of this Chapter. The mitigation plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when conditions set forth in Section 22.22.050(C) of this Chapter are met and the mitigation plan is executed.

Dated and signed this 3rd day of November, 2016, at Stevenson, Washington.



Alan Peters, Planner
Planning Division

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NOTE:

Any new development not included in this approved site plan, will require a new application and review.

EXPIRATION:

As per SCC §22.06.150(A), this Administrative Decision approving a proposed development action shall become void in two years if the development is not commenced within that period, or once development has commenced the development action is discontinued for any reason for one continuous year or more.

If the development does not include a structure the permit shall expire two years after the date the land use approval was granted unless the use or development was established according to all specifications and conditions of approval in the approval. For land divisions, "established" means the final deed or plat has been recorded with the county auditor.

If the development includes a **structure** the permit shall expire when construction has not commenced within two (2) years of the date the land use approval was granted; or once the structure has been started and if the structure has not been completed within two (2) years of the date of commencement of construction the permit shall expire. Completion of the structure for this purpose means the completion of the exterior surface(s) of the structure; and compliance with all conditions of approval in the land use approval, including, but not limited to, painting of the exterior of the structure.

APPEALS:

The Director reserves the right to provide additional comment and findings of fact regarding this decision, if appealed.

This Administrative Decision shall be final unless reversed or modified on appeal. A written Notice of Appeal form must be filed by an interested person within 20 days from the date hereof. Appeals are to be made to the Skamania County Hearing Examiner, P.O. Box 1009, Stevenson, WA 98648. Notice of Appeal forms and mailing lists are available at the Community Development Department and must be accompanied by a \$2,450.00 nonrefundable-filing fee and a Certificate of Mailing.

The final determination of the Environmental Threshold Determination related to this underlying government action can be appealed to a court of competent jurisdiction, along with the underlying government action, only by the parties with standing to the Environmental Threshold Determination. If the underlying government action was exempt from SEPA review, this section does not apply.

A copy of this Decision, including the Staff Report, was sent to the following:

Persons submitting written comments in a timely manner

Yakama Indian Nation

Confederated Tribes of the Umatilla Indian Reservation

Confederated Tribes of the Warm Springs

Nez Perce Tribe

Cowlitz Tribe

Department of Archaeology and Historic Preservation

Columbia River Gorge Commission

U.S. Forest Service - NSA Office

Board of County Commissioners

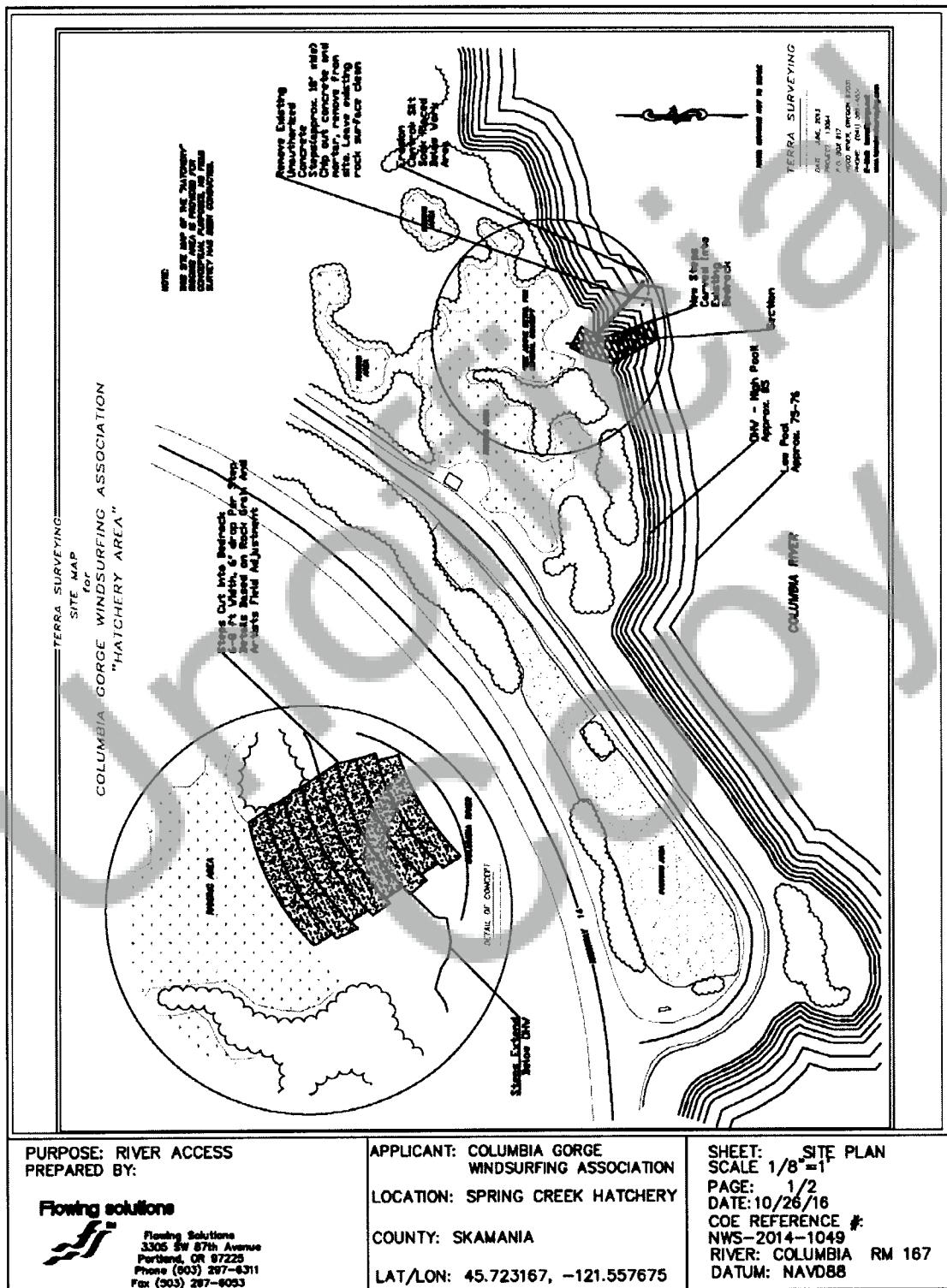
State of Washington Department of Commerce – Paul Johnson

Department of Fish and Wildlife

Site Plan

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REVISED OCTOBER 26, 2016



Elevations

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Flowing solutions



3305 SW 87th
Portland, OR 97225
(503) 297-6311P
(503) 297-6053F

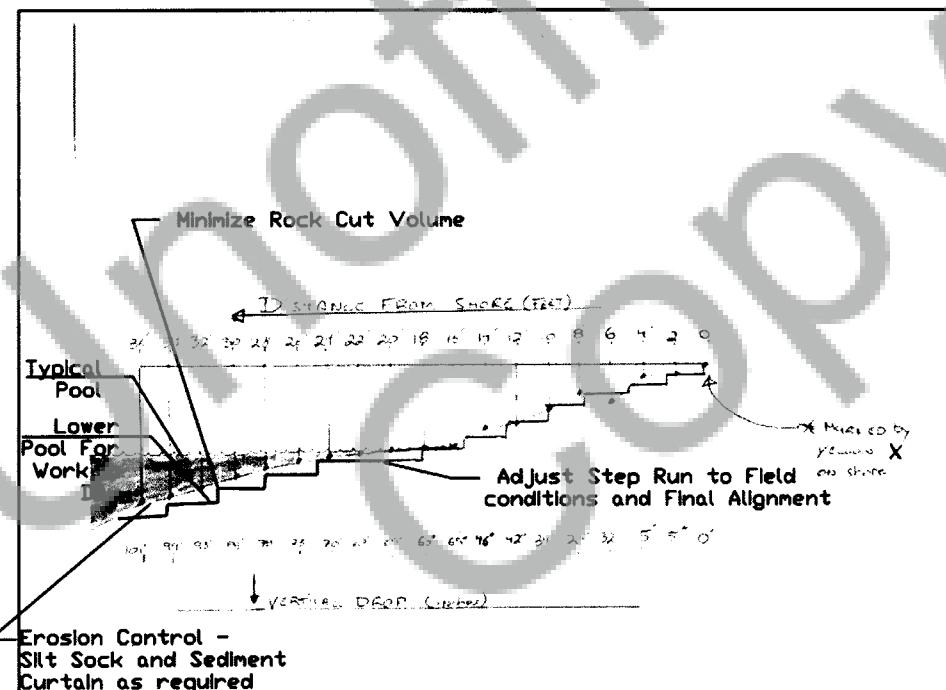


Rendering - Stone steps cut into existing rock- Steps will naturally weather and appear as weathered rock

Elevations

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REVISED OCTOBER 26, 2016



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PURPOSE: RIVER ACCESS PREPARED BY: Flowing solutions  Flowing Solutions 3305 SW 87th Avenue Portland, OR 97225 Phone (503) 287-6311 Fax (503) 287-6063	APPLICANT: COLUMBIA GORGE WINDSURFING ASSOCIATION LOCATION: SPRING CREEK HATCHERY COUNTY: SKAMANIA LAT/LON: 45.723167, -121.557675	SHEET: SECTION SCALE 1"=1' PAGE: 2/2 DATE: 10/26/16 COE REFERENCE #: NWS-2014-1049 RIVER: COLUMBIA RM 167 DATUM: NAVD88
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Tribal Treaty Rights Protection Plan NSA-15-42



Columbia Gorge Windsurfing Association | cgwa@gorge.net | 541.386.9225 | www.GorgeWindsurfing.org | facebook.com/gorgewindsurfing | twitter.com/gorgewind

Aug 18, 2016

To: Alan Peters
Skamania County Community Development Department
170 NW Vancouver Ave, PO Box 1009, Stevenson, WA 98648
apeters@co.skamania.wa.us, 509.427.3906

Re: NSA-15-42, Tribal Treaty Rights Response Plan

Dear Alan,

Thank you for working with us through the permitting process for our proposed safety improvement project at the Spring Creek Hatchery State Park. This letter is to serve as a response to comments submitted by the Yakama Nation and to present our Tribal Treaty Rights Plan. On July 6, 2016, we were made aware of comments submitted by the Yakama Nation.

SCC 22.060.180(B) states, "any substantive comments, recommendations, or concerns expressed by Indian tribal governments shall be recorded and addressed by the applicant in a treaty rights protection plan." In compliance with this, we met with Casey Barney, a representative of the Yakama Nation, on July 13, 2016. Mr. Barney expressed a general concern for conflicts between tribal fisherman and windsurfers at the site and potential for damaged nets. Furthermore, in the letter received on July 6th, Yakama Nation Cultural Resources Program Manager, Johnson Meninick, opposed the proposal in part due to "defacing a natural bedrock by cutting steps."

First, we would like to recognize the historical importance fishing has for the Yakama Nation, especially on this section of the Columbia River. Fishing has been taking place here for many, many generations and the Treaty of 1855 put in place protections to ensure fishing can and will continue for the Yakama people. This project in no way is meant to undermine the Yakama Nation's Tribal Treaty rights to fish at this location, and will not affect treaty or other rights of the Yakama Nation or any other tribe.

Our belief is that this project will consolidate existing use at the State Park. As the park functions now, windsurfers use multiple locations to access the water. Improving one location significantly will limit the use of these other locations, and can reduce the potential for conflicts with fishing nets. Furthermore, this proposal will reduce the risk of users altering the shoreline on their own. We would like to offer to remove a small bit of concrete that was placed at the launch site location by an unaffiliated person during our projects construction. Lastly, while we recognize cutting into the bedrock seems like defacement, we believe that it will be less invasive than bringing in and using materials not normally found on the shoreline.

We would like to offer several possibilities in educating park users in tribal fishing rights as well. With the direction of the Tribe and State Parks, we would like to see some signage added to address the Tribal fishing rights, both from a historical perspective and from current use. Having a place where the Columbia River Inter-Tribal Fish Commission could post details on fishing seasons, net locations, season durations, etc. could be a huge asset as well to limiting potential conflicts. We could coordinate with

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State Parks in order to successfully enact this. Furthermore, we could publish information on our website and in our newsletters educating users in fishing seasons, net uses, and how to avoid them.

We believe that this project will not only provide a safer access to the water, but will consolidate use, control traffic entering the water, and thus reduce conflict with existing tribal fishing activity. We are open to continuing to work with the Yakama Nation on developing this plan of action to ensure this project will not change current fishing activity at this site.

Thank you again for your time and consideration of our application.

Best,



Greg Stiegel, Executive Director