

**CERTIFICATE AND ORDER**

**FOR FILING**

**TEMPORARY**

**ADMINISTRATIVE RULES WITH THE OFFICE OF THE CODE REVISER**

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of Temporary rule(s) adopted on April 13, 1993, by the Columbia River Gorge Commission to become effective June 1, 1993, through October 31, 1993.

The within matter having come before the Columbia River Gorge Commission after all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises.

NOW THEREFORE, IT IS HEREBY ORDERED that the following action be taken:

Adopted: 350-70

as Administrative Rules of the Columbia River Gorge Commission

DATED this 28th day of April, 1993.

By: 

Title: Jonathan Doherty, Executive Director

Statutory Authority: RCW 43.97.015, Chapter 499, Washington Laws 1987.

For Further Information Contact: Jan Brending, Rules Coordinator, (509) 493-3323.

CODE REVISER'S OFFICE  
STATE OF WASHINGTON  
CLERK

MAY 06 1993

TIME

10:35

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93-11-021

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# **FINDINGS FOR EMERGENCY RULE ADOPTION OF COMMISSION RULE 350-70**

## **SUMMARY OF RULES**

The rules set forth the process in which an effected party may appeal to the Columbia River Gorge Commission a decision made by the Executive Director implementing the Columbia River Gorge National Scenic Area Management Plan through Gorge Commission land use ordinances.

## **STATEMENT OF NEED**

1. The National Scenic Area Act contemplates the Gorge Commission shall act in an appellate role once land use ordinances have been adopted by counties in the Gorge or, when the Gorge Commission has adopted such ordinances to implement the Act.
2. The public needs a detailed process for appeals to the Columbia River Gorge Commission.

## **STATUTORY AUTHORITY**

Authority to adopt the rules derives from the Scenic Area Act (16 U.S.C. § 544 et. seq. and the Columbia River Compact, Article I, Section a(4)(g), at ORS 196.150 and RCW 43.97.015. The temporary rule is necessary as a result of federal law, 16 U.S.C. § 544 et. seq. as well as state law.

## **DOCUMENTS RELIED UPON**

The rule is based on the Columbia River Gorge National Scenic Area Management Plan and the National Scenic Area Act (16 U.S.C. § 544 et. seq.). Copies of these documents are available at the Columbia River Gorge Commission office.

## **STATEMENT OF ANTICIPATED EFFECTS**

The rule provides an appeal process from decisions made by the Executive director in implementing the Management Plan for the Columbia River Gorge National Scenic Area Act through a land use ordinances as required by the National Scenic Area Act.

## **FISCAL IMPACT STATEMENT**

The rule will not have an adverse fiscal impact on the public or local government. The rule provides a process for appeals from decisions of the Executive Director which will ensure an efficient review process consistent with the Act.

# **COLUMBIA RIVER GORGE COMMISSION**

## **TEMPORARY RULE**

### **Chapter 350**

### **Division 70**

## **Appeals From Decisions Under Gorge Commission Ordinances**

### **350-70-000. Purpose.**

The purpose of this division is to define the process and standards used by the Columbia River Gorge Commission in hearing appeals from decisions relating to the implementation of the Columbia River Gorge National Scenic Area Act ("National Scenic Act" or "Act"). The rule applies to appeals from decisions by the Executive Director under ordinances adopted by the Gorge Commission.

### **350-70-010. Authority.**

The National Scenic Act authorizes appeals to the Gorge Commission by a person or entity adversely affected by a final action or order, and this includes decisions by the Executive Director under a land use ordinance for a county adopted by the Gorge Commission.

### **350-70-020. Scope.**

Scope of Rules: All proceedings commenced by Notice of Intent to Appeal and Petition shall be governed by these rules.

Appeals commenced by a Notice of Appeal filed under the Final Interim Guidelines shall continue to be governed by Commission Rule 350-20 as adopted December 1, 1987, and the Final Interim Guidelines.

### **350-70-030. Application.**

These rules are intended to promote the efficient review of land use decisions in accordance with the National Scenic Act while affording all interested persons reasonable notice and opportunity to intervene, reasonable time to prepare and submit their cases, and a full and fair hearing. The rules shall be interpreted to carry out these objectives and to promote justice.

### **350-70-040. Definitions.**

In these rules, unless the context or subject matter requires otherwise:

- (1) "Applicant" means the person who requested that the Executive Director of the Gorge Commission take an action which resulted in a land use decision.
- (2) "Commission" means the Columbia River Gorge Commission or any member thereof.
- (3) "Counties" means Multnomah, Hood River and Wasco Counties, Oregon, and Clark, Skamania, and Klickitat Counties, Washington.
- (4) "Days" means calendar days.
- (5) "Executive Director" means the director of the Gorge Commission.
- (6) "File" means to deliver to Commission offices by personal delivery or by mail, not by fax. To be considered filed, a document must be received at Commission offices by 5:00 p.m.
- (7) "Final decision": A decision is final when it is reduced to writing and bears the signature of the Executive Director of the Gorge Commission.
- (8) "Land use decision" means a final decision by the Executive Director based on the National Scenic Act.
- (9) "Notice" means the Notice of Intent to Appeal and Petition and refers to the document which must be filed with the Commission in order to begin a review proceeding.
- (10) "Party" means the petitioner, the applicant if different from the petitioner, the Executive Director, and any person who intervenes.
- (11) "Transmit" means to send with the United States Postal Service by first class mail or to deliver in person.

### **350-70-050. Notice of Intent to Appeal and Petition.**

- (1) Filing: The Notice of Intent to Appeal and Petition from a decision by the Director shall be filed with the Commission on or before the 30th day after the date the decision

sought to be reviewed becomes final. A Notice filed thereafter shall not be deemed timely filed and the appeal shall be dismissed.

(2) Service of Notice of Intent to Appeal and Petition: The Notice of Intent to Appeal and Petition shall be filed with the Commission and served on all persons identified in the Notice as required by subsection (3)(f) of this rule on or before the date the Notice of Intent to Appeal and Petition is required to be filed.

(3) Contents of Notice of Intent to Appeal and Petition: The Notice of Intent to Appeal and Petition shall be substantially in the form set forth in Exhibit 1 and shall contain:

- (a) A caption which sets forth the name(s) of the person(s) filing the Notice, identifying the person(s) as petitioner(s), and Executive Director, identifying the Executive Director as respondent;
- (b) Below the caption the heading "Notice of Intent to Appeal and Petition";
- (c) The full title of the decision to be reviewed as it appears on the final decision;
- (d) The date the decision to be reviewed became final;
- (e) A concise description of the decision to be reviewed;
- (f) The name, address and telephone number of each of the following:
  - (A) The Petitioner. If the petitioner is not represented by an attorney, the petitioner's name, address and telephone number shall be included. If an attorney represents the petitioner, the attorney's name, address and telephone number shall be substituted for that of the petitioner. If two or more petitioners are unrepresented by an attorney, one petitioner shall be designated as the lead petitioner.
  - (B) The Executive Director and the Director's legal counsel;
  - (C) The applicant, if any (and if other than the petitioner). If an applicant was represented by an attorney before the Executive Director, the applicant's address and telephone number may be omitted and the name, address and telephone number of the applicant's attorney shall be included;

(D) Any other person to whom written notice of the land use decision was mailed as shown on the Executive Director's records. The telephone number may be omitted for any such person.

(g) A statement advising all persons, other than the Executive Director, that in order to participate in the review proceeding a person must file a motion to intervene pursuant to 350-70-170.

(h) Proof of service upon all persons required to be named in the Notice. See Exhibit 1.

(4) Filing Fee and Deposit for Costs: A filing fee and deposit for costs may be charged by the Columbia River Gorge Commission.

**350-70-060. Special Review Process.**

(1) In any development review decision by the Executive Director under any rule adopting ordinances, where the applicant contends the result eliminates all beneficial use of the property, the applicant must request reconsideration of the decision of the Executive Director and special review as follows:

(a) The request for reconsideration shall be in writing.

(b) The request for reconsideration shall set forth all pertinent facts in support of the applicant's position.

(c) The request for reconsideration shall be accompanied by copies of all relevant documents (maps, deeds, easements, reports, etc.) that support the position taken by the applicant.

(d) The request for reconsideration shall be served on the Executive Director and all parties as a separate section of the Notice of Intent to Appeal and Petition from the Executive Director's decision along with proof of service.

(2) The Director, on receipt of a request for reconsideration, shall take the following steps:

(a) Review the request for reconsideration.



- (b) Issue a written decision that addresses the specific portions of the request related to use of the property within 30 days of receipt of the request for reconsideration.
- (c) Specify the factual or legal principles relied on in support of the written decision.
- (d) Where appropriate, propose options for use for the property owner, or other options available to the property owner.
- (e) Approve, where appropriate, based on the specific facts and circumstances of the case, a use to ensure the property is not subject to what would otherwise constitute a taking if the Forest Service or the federal government does not provide just compensation for a designation it made.
- (f) The time period for submission of the Request for Review to the Gorge Commission shall not begin to run until the day after the decision on the request for reconsideration is issued.
- (g) The applicant and anyone who intervened may pursue the appeal process below once the special review process is completed.

**350-70-070. Record.**

- (1) Contents of Record: The record shall include the following:
  - (a) The final decision including findings of fact and conclusions of law of the Director's decision;
  - (b) All evidence, exhibits, maps, documents or other written materials included as part of the record during the course of the Executive Director's proceeding;
  - (c) Minutes of any meetings conducted by the Executive Director as required by law.

(2) Transmittal of Record: The Executive Director shall within 30 days after service of the Notice, transmit to the Commission the original or a certified copy, and two copies of the record of the proceeding under review. The Executive Director may, however, retain any large maps or documents which are difficult to duplicate, until the date of the hearing.



(3) Service of Record: Contemporaneously with transmittal, the Executive Director shall serve a copy of the record, exclusive of large maps and other documents which are difficult to duplicate, on the petitioner or the lead petitioner, if one is designated, and all other parties.

(4) Specifications of Record:

(a) The record shall:

(A) Be filed in a suitable folder; the cover shall bear the title of the case as it appears in the Notice, and the Commission's numerical designation for the case, and shall indicate the numerical designation given the land use decision by the Executive Director;

(B) Begin with a table of contents, listing each item contained therein, and the page of the record where the item begins (see Exhibit 2), and listing each large map or document retained by the Executive Director under subsection (2) of this rule;

(C) Be securely fastened;

(D) Have pages numbered consecutively, with the page number at the bottom right-hand corner of each page;

(E) Be arranged in inverse chronological order, with the most recent item on top.

(b) A record which does not conform to the preceding requirements shall not be accepted by the Commission.

### **350-70-080. Objections to the Record.**

(1) Before filing an objection to the record, a party shall attempt to resolve the matter with the Executive Director's legal counsel and the other parties. If the Executive Director amends the record in response to an objection, the date the amendment is received by the Commission shall be considered the date the record is received for the purpose of computing time limits as required by these rules.

(2) An objection to the record shall be filed with the Commission within 10 days following service of the record on the person filing the objection. Objections may be made on the following grounds:

- (a) The record does not include all materials included as part of the record during the proceedings before the Executive Director. The omitted item(s) shall be specified, as well as the basis for the claim that the item(s) are part of the record.
- (b) The record contains material not included as part of the record during the proceedings before the Executive Director. The item(s) not included as part of the record during the proceedings before the Executive Director shall be specified, as well as the basis for the claim that the item(s) are not part of the record.
- (c) The minutes or transcripts of meetings or hearings are incomplete or do not accurately reflect the proceedings.

(3) An objection on grounds that the minutes or transcripts are incomplete or inaccurate shall demonstrate with particularity how the minutes or transcripts are defective and shall explain with particularity why the defect is material. Upon such demonstration, the Commission shall require the Executive Director to produce additional evidence to prove the accuracy of the contested minutes or transcripts. If the evidence regarding contested minutes is an audiotape recording, a transcript of the relevant portion shall be submitted.

(4) The Commission or its staff may conduct a telephone conference with the parties to consider and resolve any objections to the record.

(5) If an objection to the record is filed, the time limits for all further procedures under these rules shall be suspended. When the objection is resolved, the Commission shall issue a letter or order declaring the record complete and setting forth the schedule for subsequent events. Unless otherwise provided by the Commission, the date of the Commission's letter or order shall be deemed the date of receipt of the record for purposes of computing subsequent time limits.

### **350-70-090. Request for Review.**

(1) **Filing and Service of Request:** The Request for Review shall be filed with the Commission within 30 days after the date the record is received by the Commission. The Request shall also be served on the Executive Director and any party who has filed a motion to intervene. Failure to file a Request for Review within the time required by this section shall result in dismissal of the appeal and forfeiture of the filing fee and deposit for costs to the Gorge Commission.

(2) **Specifications of Request:** The Request for Review shall

- (a) Begin with a table of contents;
  - (b) Not exceed 50 pages, exclusive of appendices, unless permission for a longer petition is given by the Commission. If a Request for Review exceeding the 50 page limit is filed without permission, the Commission shall notify the author, and a revised brief satisfying the 50 pages limit shall be filed within three (3) days of notification by the Commission.
  - (c) Have a blue cover page, stating the full title of the proceeding, and the names, addresses and telephone numbers of all parties unrepresented by attorney. If a party is represented by an attorney, the name, address and telephone number of the attorney shall be substituted for the party. If there is more than one petitioner, the cover page shall specify the petitioner(s) are filing the Request. An intervenor shall be designated as either petitioner or respondent.
  - (d) Be typewritten, in pica type, and double spaced;
  - (e) Be signed on the last page by the author.
- (3) Contents of Request: The Request for Review shall:
- (a) State the facts that establish petitioner's standing;
  - (b) Present a clear and concise statement of the case, in the following order, with separate section headings:
    - (A) The nature of the land use decision and the relief sought by petitioner;
    - (B) A summary of the arguments appearing under the assignments of error in the body of the Request;
    - (C) A summary of the material facts. The summary shall be in narrative form with citations to the pages of the record where the facts alleged can be found.
  - (c) State why the challenged decision is a land use decision subject to the Commission's jurisdiction;
  - (d) Set forth each assignment of error under a separate heading. Where several assignments of error present essentially the same legal questions, the argument in support of those assignments of error shall be combined;

- (e) Contain a copy of the challenged decision, including any adopted findings of fact and conclusions of law;
- (f) Contain a copy of any management plan provision, comprehensive plan provision, ordinance or other provision of local law cited in the request, unless the provision is quoted verbatim in the Request.

**350-70-100. Respondent's Submission.**

(1) **Filing and Service of Submission:** Respondent's submission and/or brief shall be filed within 30 days after the Request for Review is received by the Commission. A copy of the respondent's submission shall be served on the petitioner or lead petitioner and all intervenors.

(2) **Specifications of Submission:** Respondent's submission shall conform to the specifications of the petition for review, except that it shall have a red cover. If there is more than one respondent, the cover page shall specify which respondent is filing the brief.

(3) **Contents of Submission:**

(a) The respondent's submission shall follow the form prescribed for the Request for Review. The respondent shall specifically accept the petitioner's statement of the case or shall cite any alleged omissions or inaccuracies therein and may state additional relevant facts or other matters. The statement shall be in narrative form with citations to the pages of the record where support for the facts alleged are found.

(b) Respondent shall accept or challenge petitioner's statement of the Commission's jurisdiction and petitioner's statement of standing. The basis for any challenge shall be stated. If respondent contends that the facts alleged by petitioner in support of standing are not true, respondent shall specify which allegations are contested.

**350-70-110. Reply Brief.**

A reply brief shall not be filed.

**350-70-120. Prehearing Conference.**

The Commission, on its own motion or at the request of any party, may call a prehearing conference to consider:

- (1) Simplification of the issues;
- (2) The possibility of obtaining admissions of fact and documents which will avoid unnecessary proof;
- (3) Limitation of the number of witnesses;
- (4) The form and substance of any prehearing order;
- (5) Such other matters as may aid in the disposition of the appeal.

**350-70-130. Proposed Prehearing Order.**

The Commission with or without a prehearing conference, may require that the parties prepare and sign a proposed prehearing order to be filed with the Commission on or before a date specified by the Commission. The order shall contain:

- (1) A statement of contentions of law of each party;
- (2) A concise statement of all contentions of fact to be proved by each party;
- (3) A statement of all agreed facts;
- (4) A list of witnesses and a summary of their testimony;
- (5) A list of exhibits and a statement of the contents of each;
- (6) Such other matters as the Commission may require in order to expedite the hearing and appeal.

**350-70-140. Hearing.**

- (1) The hearing before the Commission shall be "de novo" but shall include the record submitted by the Executive Director.
- (2) Conduct of hearing:
  - (a) The hearing shall be conducted in the following order:
    - (A) The petitioner shall present its evidence including that of any witnesses;



- (B) The other party(ies) shall have the opportunity to present evidence disputing that of the petitioner;
  - (C) The petitioner shall present rebuttal evidence as permitted by the Commission, limited to specific issues;
- (b) Any witness is subject to cross examination by opposing parties;
  - (c) Any member of the Commission may question any witness;
  - (d) The burden of presenting evidence in support of a fact or proposition rests on the proponent of the fact or proposition;
  - (e) The Commission may continue a hearing and may set time limits for any hearing;
  - (f) Exhibits shall be marked to identify the party offering the exhibits. The exhibits shall be preserved by the Commission as part of the record.
- (3) Evidentiary Rules:
- (a) Evidence of a type commonly relied upon reasonably prudent person in conduct of their serious affairs shall be admissible.
  - (b) Irrelevant, immaterial or unduly repetitious evidence shall be excluded.
  - (c) All evidence not objected to, shall be received by the Commission, subject to the Commission's power to exclude irrelevant, immaterial or unduly repetitious matter.
  - (d) Evidence objected to may be received by the Commission. Rulings on the admissibility of such evidence, if not made at the hearing, shall be made at or before the time a final order is issued.

**350-70-150. Depositions.**

On petition of any party, the Commission may order testimony of any witness to be taken by deposition in the same manner prescribed for depositions in civil actions. Depositions may also be taken by the use of audio or audio visual recordings. The petition for deposition shall set forth:



- (1) The name and address of the witness whose testimony is desired;
- (2) A showing of relevance and materiality of the testimony;
- (3) A request for an order that the testimony of the witness be taken.

**350-70-160. Subpoenas.**

The Commission shall issue subpoenas to any party to the appeal upon written request and upon a showing that the witness or the documents to be subpoenaed will provide relevant evidence generally not available without subpoena. Subpoenas may also be issued under the signature of the attorney of record of a party. Witnesses appearing pursuant to subpoena, other than parties or employees of the Commission, shall be tendered fees and mileage as prescribed by law for witnesses in civil actions. The party requesting the subpoena shall be responsible for service of the subpoena and tendering the witness and mileage fees to the witness.

**350-70-170. Intervention.**

(1) Standing to Intervene: The applicant and any person who appeared before the Executive Director may intervene in a review proceeding before the Commission. Status as an intervenor shall be recognized by letter or order of the Commission when a motion to intervene is filed.

(2) Motion to Intervene: In the interests of promoting timely resolution of appeals, a motion to intervene shall be filed within 10 days after the Notice of Intent to Appeal and Petition is filed pursuant to 350-70-050. The motion to intervene (exhibit 3) shall:

- (a) State whether the party is intervening on the side of the petitioner or the respondent;
- (b) State the facts which show the party is entitled to intervene, supporting the statement with affidavits, citations to the record or other proof;
- (c) Be served upon the Commission and all parties.

(3) Intervenor's Submission:

- (a) If intervention is sought as a petitioner, the submission (or brief) shall be filed within the time limit for filing the Request for Review, and shall satisfy the requirements for a Request for Review in 350-70-090.

(b) If intervention is sought as a respondent, the submission (or brief) shall be filed within the time for filing a respondent's brief and shall satisfy the requirements for a respondent's brief in 350-70-100.

(4) Objections to a motion to intervene shall be filed within 7 days of the filing of the motion.

### **350-70-180. Amicus Participation.**

(1) A person or organization may appear as amicus only by permission of the Commission on written motion. The motion shall set forth the specific interest of the movant and state reasons why a review of relevant issues would be significantly aided by participation of the amicus. A copy of the motion shall be served on all parties to the proceeding.

(2) Appearance as amicus shall be by submission and/or brief only. An amicus brief shall be subject to the same rules as those governing briefs of parties to the appeal and shall be filed within the time required for filing respondent's brief. No filing fee is required. An amicus brief shall have a green cover.

(3) An amicus brief shall be submitted at the time the respondent's brief is due.

### **350-70-190. Consolidation.**

The Commission, at the request of any party or on its own motion, may consolidate two or more proceedings, provided the proceedings seek review of the same or closely related land use decision(s).

### **350-70-200. Extensions of Time.**

(1) In no event shall the time limit for the filing of the Notice of Intent to Appeal and Petition be extended.

(2) In no event shall the time limit for the filing of the Request for Review be extended without good cause shown, written consent by all parties and approval of the Gorge Commission.

(3) In the event the Commission extends the deadline for issuance of its final order without consent of the parties, it shall enter the specific findings to explain such action.

**350-70-210. Stays.**

- (1) A motion for a stay of a land use decision shall include:
  - (a) A statement setting forth movant's right to standing to appeal the decision;
  - (b) A statement explaining why the challenged decision is subject to the Commission's jurisdiction;
  - (c) A statement of facts and reasons for issuing a stay, demonstrating a colorable claim of error in the decision and specifying how the movant will suffer irreparable harm if a stay is not granted;
  - (d) A suggested expedited briefing schedule;
  - (e) A copy of the decision under review and copies of all ordinances, resolutions, plans or other documents necessary to show the standards applicable to the decision under review.
- (2) A copy of a motion for stay shall be served on the Executive Director and the applicant for the land use decision, as well as any other parties, if any, on the same day the motion is filed with the Commission.
- (3) Unless otherwise ordered by the Commission, a response to a motion for a stay of a land use decision shall be filed within 10 days after the motion is filed and shall set forth all matters in opposition to the motion and any facts showing any adverse effect, including an estimate of any monetary damages that will accrue if a stay is granted.
- (4) The Commission shall base its decision on the stay, including the right to a stay, or conditions of any stay order, upon the motion presented. Documents may be attached to the motion in the form of affidavits, maps or other materials, or presented at a hearing which may be convened at the discretion of the Commission and follow the process in 350-70-140.

**350-70-220. Final Order of Commission.**

- (1) An Order of the Commission is final when the cover page of the order containing the caption of the appeal:
  - (a) States "Final Opinion and Order";

- (b) Contains findings of fact and conclusions of law or incorporates them from the record below.
  - (c) Indicates whether the decision being reviewed is dismissed, affirmed, reversed or remanded;
  - (d) Contains the date of the final order; and
  - (e) Is date stamped by the Commission.
- (2) The order shall be mailed to all parties.

(3) When an order of the Commission becomes final it shall be made available to interested members of the public. The Commission may charge a reasonable fee for copies of its final orders or other orders furnished to members of the public.

(4) Notwithstanding subsections (1)(a) and (b) of this section, an order granting a motion to dismiss an appeal is a final order.

**350-70-230. Reversal or Remand of Land Use Decisions.**

- (1) The Commission shall reverse a land use decision when:
  - (a) The Executive Director exceeded his/her jurisdiction;
  - (b) The decision is unconstitutional;
  - (c) The decision violates a provision of applicable law and is prohibited as a matter of law; or
  - (d) The decision was clearly erroneous or arbitrary and capricious.
- (2) The Commission shall remand a land use decision for further proceedings when:
  - (a) The findings are insufficient to support the decision;
  - (b) The decision is not supported by substantial evidence in the whole record;
  - (c) The decision is flawed by errors that prejudice the substantial rights of the petitioner(s); or

(d) The decision improperly construes the applicable law.

350-70, DIR.7/jmb

BEFORE THE COLUMBIA RIVER GORGE COMMISSION

|                     |   |          |
|---------------------|---|----------|
| Jane Clark,         | ) |          |
|                     | ) |          |
| Petitioner,         | ) |          |
|                     | ) |          |
| vs.                 | ) | CRGC No. |
|                     | ) |          |
| Executive Director, | ) |          |
|                     | ) |          |
| Respondent.         | ) |          |

NOTICE OF INTENT TO APPEAL AND PETITION

I.

Notice is hereby given that petitioner intends to appeal that land use decision of respondent entitled [INDICATE TITLE OF LAND USE DECISION], which became final on [INDICATE DATE] and which involves [SET FORTH A BRIEF STATEMENT OF THE NATURE OF THE DECISION]

II.

Petitioner, Jane Clark, is represented by: [INDICATE NAME, ADDRESS AND TELEPHONE NUMBER OF ATTORNEY].

Respondent, Executive Director, has as its mailing address and telephone number: [INDICATE MAILING ADDRESS AND TELEPHONE NUMBER] and has, as its legal counsel: [INDICATE NAME, ADDRESS AND TELEPHONE NUMBER].

III.

Applicant, John Developer, was represented in the proceeding below by: [INDICATE



NAME, ADDRESS AND TELEPHONE NUMBER OF ATTORNEY].

Other persons mailed written notice of the land use decision by Executive Director, as indicated by its records in this matter, include: [INDICATE NAMES, ADDRESSES AND TELEPHONE NUMBER OF ALL PERSONS WHOM THE EXECUTIVE DIRECTOR'S RECORDS INDICATE WERE MAILED WRITTEN NOTICE OF THE LAND USE DECISION. THE TELEPHONE NUMBERS OF SUCH PERSONS MAY BE OMITTED].

NOTICE:

Anyone designated in paragraph III of this Notice who desires to participate as a party in this case before the Columbia River Gorge Commission must file with the Commission a Motion to Intervene in this proceeding as required by CR 350-70-130.

\_\_\_\_\_  
Petitioner (each petitioner must sign)

or

\_\_\_\_\_  
Attorney for Petitioner(s)

CERTIFICATE OF SERVICE

I hereby certify that on [INDICATE DATE], I served a true and correct copy of this Notice of Intent to Appeal and Petition on all persons listed in paragraphs II and III of this Notice pursuant to CR 350-70-050(2) by (a) first class mail or (b) personal delivery. [INDICATE WHICH]

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

EXHIBIT 2  
(350-70-070)

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BEFORE THE COLUMBIA RIVER GORGE COMMISSION

|                     |   |          |
|---------------------|---|----------|
| Jane Clark,         | ) |          |
|                     | ) |          |
| Petitioner,         | ) |          |
|                     | ) |          |
| vs.                 | ) | CRGC No. |
|                     | ) |          |
| Executive Director, | ) |          |
|                     | ) |          |
| Respondent.         | ) |          |

MOTION TO INTERVENE

I.

John Smith moves to intervene on the side of (a) Petitioner or (b) Respondent [INDICATE WHICH] in the above-captioned appeal. Mr. Smith's (or his attorney's) address and phone number are as follows: [INDICATE ADDRESS AND PHONE NUMBER].

II.

The facts establishing movant's right to intervene are as follows: [SET FORTH STATEMENT OF FACTS].

III. [OPTIONAL]

In support of this motion, John Smith relies on the attached affidavit, Memorandum of Law or both.

\_\_\_\_\_ Date

\_\_\_\_\_ John Smith

or

---

Barbara Neil, Attorney for  
John Smith

[Add Certificates of Filing and Service on separate page. See forms in Exhibits 4 and 5.]

EXHIBIT 4

CERTIFICATE OF FILING  
[For Document Other Than  
Notice of Intent to Appeal]

I hereby certify that on [INDICATE DATE], I filed the original of this [IDENTIFY DOCUMENT], together with [INDICATE NUMBER OF COPIES] copies, with the Columbia River Gorge Commission, 288 E. Jewett Blvd., P.O. Box 730, White Salmon, WA 98672, by (a) first class mail or (b) personal delivery [INDICATE WHICH].

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

EXHIBIT 5

CERTIFICATE OF SERVICE

[For Document Other Than  
Notice of Intent to Appeal]

I hereby certify that on [INDICATE DATE], I served a true and correct copy of this [IDENTIFY DOCUMENT] by (a) first class mail or (b) personal delivery [INDICATE WHICH] on the following persons: [LIST NAME AND ADDRESS OF EACH PARTY OR THE PARTY'S ATTORNEY].

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature