



TO: Columbia River Gorge Commission
FROM: Friends of the Columbia Gorge
RE: Gorge 2020 Draft Natural Resources Chapter Revisions
DATE: June 30, 2020

Friends of the Columbia Gorge (Friends) is a non-profit organization with approximately 6,500 members dedicated to protecting and enhancing the resources of the Columbia River Gorge. Our membership includes hundreds of citizens who reside within the Columbia River Gorge National Scenic Area.

Friends supports many of the technical updates included in the Draft Revised Management Plan. In addition, Friends and hundreds of members of the public identified many of the following technical and substantive deficiencies in the Natural Resource Chapter of the Management Plan during the scoping and in subsequent comment opportunities. Please included these edits in the Final Revised Management Plan.

Natural Resources

No other chapter of the Management Plan is in more need of an overhaul than the natural resources chapter. The natural resource policies and guidelines in the Management Plan have not been updated for nearly 30 years. Since 1991 when the plan was adopted, population has increased in the Gorge and throughout the region, thousands of new residential structures have been built in the Gorge outside of urban areas and clearcut logging has destroyed habitat. Climate changes has increased water temperatures, changed seasonal stream flows and increased the frequency and intensity of forest fires.

Friends appreciates the technical updates included in the Draft Revised Management Plan, however policy revisions are necessary to incorporate the best available science and to comply with the purposes and standards of the National Scenic Area Act (Act) requiring the protection and enhancement of natural resources and the avoidance of adverse effects.

The Act requires the same protection standard for natural resources regardless of whether the resource is in the GMA or the SMA. Yet the GMA standards are much weaker than the SMA and are out of date. GMA policies and guidelines must be revised to provide similar levels of protection as in the SMA.

(Draft revisions are redlined. Friends' recommended revisions are in strikethrough or in blue text.)

GMA Goals: Water Resources

1. **GMA Goal #1, Page 107. Wetlands.** Achieve no overall net loss of wetlands acreage and functions.

Comment: The first purpose of the National Scenic Area Act (“Act”) requires the protection and to provide for the enhancement of natural resources. No distinction is made in the Act between levels of protection for SMA natural resources and GMA natural resources. All natural resources in the scenic area must be protected and enhanced. The “no overall net loss” standard may not be protecting wetlands and does not provide for the enhancement of wetlands. To Friends knowledge, monitoring data is not available or has not been reviewed to assess whether the no net loss standard is fulfilling the purposes and standards of the Act.

Recommendation: Delete the no net loss standard and replace it with the “no loss” standard that applies in the SMAs.

Friends proposed revision (Delete text in blue strikethrough):

1. Achieve no ~~overall net~~ loss of wetlands acreage and functions.

GMA Policies: Wetlands

2. **GMA Policy 6, Page 108.** New uses shall be sited to avoid wetlands to the greatest extent practicable. New uses that are not water-dependent or water-related shall be allowed in wetlands when less environmentally damaging practicable alternatives do not exist.

Comment: This proposed language could result in adverse effects to wetlands, which is prohibited by the Act and in other sections of the Management Plan. Allowing new uses in wetlands that are not water dependent or water related when less environmentally damaging alternatives exist would allow adverse effects in violation of the Act. At a minimum, in the second sentence “shall” should be replaced with “may.”

Recommendation: Replace with the following: New uses shall be sited to avoid wetlands and any adverse effects to wetlands.

Friends proposed revision (Staff draft revisions in red. Delete text in blue strikethrough):

6. New uses **shall be sited to avoid wetlands and any adverse effects to wetlands** ~~to the greatest extent practicable. New uses that are not water dependent or water related shall be allowed in wetlands when less environmentally damaging practicable alternatives do not exist.~~

3. **GMA Policy 7, Page 108.** Impacts to wetlands ~~shall~~ **may** be allowed only when all practicable measures have been applied to minimize those impacts that are unavoidable and in the public interest.

Comment: This policy would allow adverse effects to wetlands in violation of the Act. Delete Policy 7.

Friends proposed revision (Delete text in blue strikethrough):

~~7. Impacts to wetlands shall may be allowed only when all practicable measures have been applied to minimize those impacts that are unavoidable and in the public interest.~~

GMA Policies: Streams, Ponds, Lakes, Riparian Areas

4. **GMA Policy 1, Page 109.** The ~~stream, pond, lake, and riparian area~~ water resources goals, policies and guidelines in the Management Plan shall not apply to those portions of the main stem of the Columbia River that adjoin the Urban Areas. The Gorge Commission will rely on the applicable federal and state laws to protect those portions of the Columbia River that adjoin the Urban Areas. These policies are not intended to impede or prevent implementation of Tribes' treaty rights in their ceded lands and aboriginal territories.

Comment: Unless these sections of the Columbia River are designated and mapped as urban areas, there are no exceptions in the Act from the requirements to protect and enhance natural resources and to avoid adverse effects. Friends recommends deleting this entire policy.

Friends proposed revision (Delete text in blue strikethrough):

~~The stream, pond, lake, and riparian area water resources goals, policies and guidelines in the Management Plan shall not apply to those portions of the main stem of the Columbia River that adjoin the Urban Areas. The Gorge Commission will rely on the applicable federal and state laws to protect those portions of the Columbia River that adjoin the Urban Areas. These policies are not intended to impede or prevent implementation of Tribes' treaty rights in their ceded lands and aboriginal territories.~~

5. **GMA Policy 2, Page 109.** Proposed uses adjacent to streams, ponds, and lakes ~~should~~ shall preserve an undisturbed buffer zone that is wide enough to protect aquatic and **riparian areas**. ~~Low intensity uses may be allowed outright in streams, ponds, lakes, and their buffer zones.~~ Uses with no practicable alternative that may affect water quality, natural drainage, or wildlife habitat may be allowed in streams, ponds, lakes, and their buffer zones, subject to compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources and the approval criteria in this section.

Comment: Revise this policy. Clarify that uses shall not adversely affect water resources.

Friends proposed revision (Friends' proposed new text in bold blue):

Proposed uses adjacent to streams, ponds, and lakes ~~should~~ shall preserve an undisturbed buffer zone that is wide enough to protect aquatic and riparian areas. ~~Low intensity uses may be allowed outright in streams, ponds, lakes, and their buffer zones.~~ Uses with no practicable alternatives that may affect water quality, natural drainage, or wildlife habitat

may be allowed in streams, ponds, lakes, and their buffer zones, subject to compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources and the approval criteria in this section. **These uses shall not adversely affect water quality, natural drainage, or wildlife habitat.**

6. **GMA Policy 3, Page 109.** New uses that are not water-dependent or water-related ~~shall~~ **may** be allowed in streams, ponds, lakes, and riparian areas if they are in the public interest and ~~less environmentally damaging~~ practicable alternatives do not exist.

Comment: These uses are review uses subject to compliance guidelines to protect scenic, natural, cultural, and recreation resources. Using shall in this guidelines could mean that the uses shall be allowed regardless of adverse effects that may result. This violates the Act and other parts of this chapter.

Friends proposed revision (Delete text in strikethrough. Friends' proposed new text in bold blue):

New uses that are not water-dependent or water-related ~~shall~~ **may** be allowed in streams, ponds, lakes, and riparian areas if they are in the public interest, ~~and less environmentally damaging~~ practicable alternatives do not exist **and will not result in adverse effects.**

7. **GMA Policy 4, Page 109.** Practicable measures shall be applied to minimize unavoidable impacts to ~~streams, ponds, lakes, aquatic~~ and riparian areas.

Comment: Clarify that adverse effects are prohibited.

Friends proposed revision (Delete text in strikethrough. Friends' proposed new text in bold blue):

Practicable measures shall be applied to ~~minimize unavoidable impacts~~ **avoid adverse effects** to ~~streams, ponds, lakes, aquatic~~ and riparian areas.

Approval Criteria for Other Review Uses in ~~Wetlands, Aquatic, and Riparian Areas~~ Water Resources

8. **GMA Guideline 1(C), Page 112.** The uses identified in Guideline 21 under "Review Uses," above, may be allowed only if they meet all of the following criteria:

C. Measures will be applied to ensure that the proposed use results in the minimum feasible alteration ~~or destruction~~ of the resource. As a starting point, the following measures shall be considered when new uses are proposed in water resources or buffer zones:

Comment: The Act and other sections of this chapter prohibit adverse effects to natural resources. In the second sentence, the term "considered" could be interpreted to mean that the measures are not mandatory and only need to be thought about. "Considered" needs to be replaced with "applied."

Friends proposed revision (Delete text in strikethrough. Friends' proposed new text in bold blue):

C. Measures will be applied to ensure that the proposed use results in the minimum feasible alteration ~~or destruction~~ of the resource. As a starting point, the following measures shall be ~~considered~~ applied when new uses are proposed in water resources or buffer zones:

9. **GMA Guideline 1.C.(5), Page 113.** Stream channels shall not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to streams, ponds, lakes, and their banks. When culverts are necessary, oversized culverts with open bottoms that maintain the channel's width and grade should be used. State agencies with permitting responsibility for culverts shall be consulted.

Comment: Culverts inhibit migration of salmonids and result in adverse effects to listed species. If culverts are absolutely necessary, then "oversized culverts with open bottoms should be required and not be discretionary.

Friends proposed revision (Delete text in strikethrough. Friends' proposed new text in bold blue):

Stream channels shall not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to streams, ponds, lakes, and their banks. When culverts are necessary, oversized culverts with open bottoms that maintain the channel's width and grade ~~should~~ **shall** be used. State agencies with permitting responsibility for culverts shall be consulted.

10. **GMA Guideline 1. H., Page 113.** Unavoidable impacts to ~~wetlands~~ water resources will be offset through the deliberate restoration, creation, or enhancement of impacted resources. Restoration, creation, and enhancement are not alternatives to the guidelines listed above; they shall be used only as a last resort to offset unavoidable ~~wetlands~~ water resource impacts.

Restoration, creation, and enhancement shall achieve no net loss of water quality, natural drainage, and fish and wildlife habitat of the affected wetland, stream, pond, lake, and/or buffer zone. When a project area has been disturbed in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable.

Comment: The first purpose of the Act calls for the protection and enhancement of natural resources. The standards of "no net loss" is a low bar for restoration, creation and enhancement of water quality, natural drainage and wildlife habitat, particularly when considering the impacts of climate change. These projects should improve these resources, not just achieve no net loss of them.

Friends proposed revision (Delete text in strikethrough. Friends' proposed new text in bold blue):

Restoration, creation, and enhancement shall achieve ~~no net loss~~ **improvement** of water quality, natural drainage, and fish and wildlife habitat of the affected wetland, stream,

pond, lake, and/or buffer zone. When a project area has been disturbed in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable.

11. GMA Guideline 1. H. (10) – (13), Page 114-115.

Comment: Guidelines (10) through (13) discuss destructions of wetlands through approved uses. Destroying wetlands is an adverse effect that is prohibited by the Act and language elsewhere in this section. The draft revised Management Plan deletes many references to wetland destruction, but missed many others. Friends recommends deleting all references to wetland destruction.

Friends proposed revisions: Delete “destroyed” from guidelines (10) through (13).

Water Resource Wetlands Buffer Zones

12. GMA Guideline 2 A., Page 116. The width of wetlands, lakes, and ponds buffer zones shall be based on the dominant vegetation community that exists in a buffer zone. The following buffer zone widths shall be required:

Forest communities: 75 feet

Shrub communities: 100 feet

Herbaceous communities: 150 feet

Comment: The current buffer zones for water resources in the GMA are more than 30 years old and do not represent the best available science. Critically endangered species, such as the western pond turtle, require a much wider buffer. Western pond turtles nest on average 100 meters from the stream, wetland, pond or lake that they inhabit. Pond turtles spend a considerable part of their life history in upland habitat. (Periodic Status review for the Western Pond Turtle, WDFW, January 2017) Habitat protection for these endangered reptiles needs to be improved to comply with the purposes and standards of the Act.

Friends proposed revision (Delete text in strikethrough. Friends’ proposed new text in bold blue):

Within the range of western pond turtles, a 100 meter buffer zone width, measured from the ordinary high water mark, shall be required.

13. GMA Guideline 2.B., Page 117. Streams used by anadromous or resident fish (tributary fish habitat), special streams, intermittent streams that include year-round pools, and perennial streams: 100 feet.

Comment: Stream buffers in the General Management Area were adopted more than 30 years ago and are inadequate for providing protection of critical habitat for endangered salmon. Salmon habitat protection in the Special Management Areas and on federal forest lands is far more protective and is based on the best available science. Management recommendations for stream protection developed by the Washington Department of Fish and Wildlife that apply elsewhere in Washington are far more

protective than the minimal stream buffers that apply in large areas of the National Scenic Area. <https://wdfw.wa.gov/publications/00029>

The USEPA has developed a draft Cold Water Refuge Plan for the Lower Columbia River that includes several tributaries within the National Scenic Area. Cold Water Refuge (CWR) is essential to the survival salmonids, particularly when temperatures reach 20 degrees in the Columbia River, Species most reliant on CWR include ESA federally-listed summer steelhead and fall Chinook, because the timing of their upstream migration coinciding with peak temperatures on the main stem of the Columbia River.

<https://www.epa.gov/columbiariver/draft-columbia-river-cold-water-refuges-plan>

In 2009, the Gorge Commission determined that the habitat quality of 13 watersheds in the National Scenic Area was either moderate or impaired. None of the watersheds had an overall rating of good for stream habitat quality. Eight of the 13 watersheds were rated as having impaired stream habitat quality. The analysis does not include many important tributaries within the National Scenic Area that provide habitat for ESA listed salmonids, such as Gibbons Creek, Lawton Creek, Hamilton Creek, Greenleaf Creek, and others.

http://gorgevitalsigns.org/Reports/VSI_SOG_Natural2009.pdf

GMA Water Resource Buffers: Friends offers two options. Option number 1 is the preferred option because it has already been implemented on nonfederal land in the Special Management Areas (SMA) since 1992. Option 2 would adopt the WDFW recommendations.

1. Apply the SMA water resource buffers in the GMA. This includes requiring 200-foot buffers for perennial fish bearing streams. Allow variances to the buffers if they conflict with another natural resource buffer or would result in no beneficial economic use of a property. Variances could be granted if there are no practicable alternatives to the location and scope of the proposed use or development and the variance is the minimum necessary to allow the new use or development.
2. At a minimum, incorporate the WDFW Management Recommendations for Riparian Habitat into the Management Plan. Prohibit uses and development that are likely to adversely affect riparian and stream systems. Allow variances to the buffers if they conflict with another natural resource buffer or would result in no beneficial economic use of a property. Variances could be granted if there are no practicable alternatives to the location and scope of the proposed use or development and the variance is the minimum necessary to allow the new use or development. Recommended stream buffers are found on page 87.

<https://wdfw.wa.gov/sites/default/files/publications/00029/wdfw00029.pdf>

Table 3. Standard recommended Riparian Habitat Area (RHA) widths for areas with typed and non-typed streams. If the 100-year floodplain exceeds these widths, the RHA width should extend to the outer edge of the 100-year floodplain.

Stream Type	Recommended RHA widths in meters (feet)
Type 1 and 2 streams; or Shorelines of the State, Shorelines of Statewide Significance	76 (250)
Type 3 streams; or other perennial or fish bearing streams 1.5-6.1 m (5-20 ft) wide	61 (200)
Type 3 streams; or other perennial or fish bearing streams <1.5 m (5 ft) wide	46 (150)
Type 4 and 5 streams; or intermittent streams and washes with low mass wasting* potential	46 (150)
Type 4 and 5 streams; or intermittent streams and washes with high mass wasting* potential	69 (225)

*Mass wasting is a general term for a variety of processes by which large masses of rock or earth material are moved downslope by gravity, either slowly or quickly.

The following are important additions to the recommended RHA widths in Table 3:

- Larger RHA widths may be required where priority species occur; consult Appendix D for these widths.
- Add 30 m (100 ft) to the RHA's outer edge on the windward side of riparian areas with high blowdown potential.
- Extend RHA widths at least to the outer edge of unstable slopes along Type 4 and 5 waters in soils of high mass wasting potential.

Activities Within RHAs. The scientific literature supports the maintenance of riparian habitat areas as restricted-use zones. The restricted-use area should apply to all future developments that affect riparian habitat, and it should guide restoration of degraded areas. Activities that may affect riparian habitat features important to fish and wildlife should be carefully conducted within the RHA. Activities that degrade the structural and functional integrity of riparian habitat and associated aquatic systems should be minimized. Examples of activities that may affect riparian habitat features include tree cutting, road building, agriculture, grazing, clearing, earth moving, mining, filling, burning, or construction of buildings or other facilities.

Friends proposed revision (Delete text in strikethrough. Friends' proposed new text in bold blue):

B. Streams used by anadromous or resident fish (tributary fish habitat), special streams, intermittent streams that include year-round pools, and perennial streams: ~~100~~ **200** feet.

Site Plans and Field Surveys for Review Uses Near **Sensitive Rare** Plants

14. Guideline 2, Page 131. A field survey to identify sensitive rare plants shall be required for

- land divisions that create four or more **parcels**;
- recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, or visitor information and environmental education facilities;
- public transportation facilities that are outside improved rights-of-way;
- electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and
- communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances and other project related activities, except when all of their impacts will occur inside previously disturbed **road**, railroad or utility corridors, or existing developed utility sites, that are maintained annually.

Comment: The list of uses requiring field surveys is under-inclusive and omits many review uses that could adversely affect rare plants. All proposed new uses that would involve ground disturbance should require a rare plant survey, if located within 1,000 of a

rare plant, unless previously surveyed. Finally, notices of development review should include a statement that the proposed use is within 1000 ft. of a rare plant, but without specifying its location.

Friends' proposed revision (Delete text in strikethrough. Friends' proposed new text in bold blue):

F. Review uses involving ground disturbance within 1,000 feet of a rare plant site, unless previously surveyed within the past 10 years. Notice of development review shall contain a statement that the proposed development is within 1,000 feet of a rare plant.

15. GMA/SMA: Practicable Alternative Test, Page 134, Page 147.

1. An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

A practicable alternative does not exist if a project applicant satisfactorily demonstrates all of the following:

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

Comment: Due to the vague language in the practicable alternatives test ("PAT"), it is often misapplied. The purpose of the PAT is to identify alternative proposals that do not adversely affect a protected resource. The test must ensure that natural resources are not adversely affected by proposed uses.

Friends' proposed revision (Delete text in strikethrough. Friends' proposed new text in bold blue):

1. An alternative site, **size, scope, configuration, design or scale** for a proposed use shall be considered practicable if it is available and the **basic proposed** use can be undertaken on that site ~~after taking into consideration cost, technology, logistics, and basic overall project purposes.~~

A practicable alternative does not exist if a project applicant satisfactorily demonstrates all of the following:

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