



FINDINGS OF FACT STAFF REPORT

Date: September 8, 2012 OPRD Ocean Shores Coordinator: Tony Stein

OPRD File Number: BA-681-12 County: Coos Applicant: US Coast Guard, David Stalters

Project Location: 89092 Lighthouse Way,
Coos Bay, OR 97420
Coos County Assessor's Map #26S-14W-Section 04 CD, Tax Lot 600

Brief Project Description:

The proposed project involves the demolition and removal of the 40 foot tall and 375 feet long Cape Arago High Bridge wood structure that connects two parcels of land located at Gregory Point and the offshore Chief's Island. The State of Oregon owns the submerged and submersible (intertidal) land that separates the two properties. The subject properties are connected by a wood pedestrian bridge which has been condemned due to disrepair and structural damage.

The project also proposes to remove 6 concrete crossbeams and modify 11 concrete footings which support the upper wood bridge structure. The subject crossbeams and footings are located in the open intertidal channel between the mainland and offshore properties. The foundations of all the concrete footings and all concrete footings found above the Mean High Water Mark and outside of OPRD's jurisdictional boundaries will remain in place. The purpose of modifying the subject footings is to reduce safety risks to the public and improve the scenic value of the Cape Arago ocean shore area.

ADMINISTRATIVE RULE STANDARDS AND RELEVANT FACTS

I. GENERAL STANDARDS, OAR 736-020-0010

Project Need – There shall be adequate justification for a project to occur on and alter the ocean shore area.

The applicant states the purpose of the project is to demolish and remove the Cape Arago High Bridge prior to the transfer of the US Coast Guard (USCG) Cape Arago Light Station to the Bureau of Indian Affairs (BIA), which will hold it in trust for the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians (CTCLUSI). In a Memorandum of Understanding (MOA), the USCG, State Historic Preservation Office (SHPO), BIA, CTCLUSI, and Coquille Indian Tribe have established that the High Bridge would be removed prior to the transfer of the Light Station property by 2013. The affected area for the High Bridge demolition is about four acres and includes the northern end of Gregory Point where project staging is proposed, the High Bridge superstructure, and the southern end of Chief's Island (excluding the lighthouse).

The application reports that the High Bridge poses a risk to human safety as well as to the environment and needs to be removed. It also states that there are public, social and environmental benefits of the project including removing a safety hazard, restoring a culturally significant site and returning the shoreline to more natural conditions.

A finding of project need follows the review of all other applicable standards and is included in the findings summary at the end of this report.

Protection of Public Rights – Public ownership of or use easement rights on the ocean shore shall be adequately protected.

The proposed demolition and removal of the High Bridge structure will not affect public ownership of or the public's easement rights on the ocean shore between the subject properties.

Public Laws – The applicant shall comply with federal, state, and local laws and regulations affecting the project.

The Coos County Planning Department has received a copy of the application and determined that the project is not regulated by the local comprehensive plan and zoning ordinance. State laws and regulations are being addressed through this permit review.

Federal regulations required a U.S. Army Corps of Engineers (USACE) permit for this project. The applicant has received an approved Nationwide Permit (NWP) NWP-2012-231 from the USACE for temporary construction, access and dewatering in conjunction with the High Bridge demolition and removal project.

Alterations and Project Modifications – There are no reasonable alternatives to the proposed activity or project modifications that would better protect the public rights, reduce or eliminate the detrimental affects on the ocean shore, or avoid long-term cost to the public.

The application states that in a memorandum of understanding (MOA), the USCG, SHPO, BIA, CTCLUSI, and the Coquille Indian Tribe have established that the High Bridge would be removed prior to the transfer of the Light Station property. The USCG is under congressional order to return the property to CTCLUSI by 2013. Removal of the bridge was requested of the Coast Guard because the bridge is an attractive nuisance: trespassers and vandals use it access Chief's Island, and much damage has been caused to the now de-commissioned Cape Arago Lighthouse. Chief's Island, also known as Baldich, is in addition to being sacred to the Tribes, rich in archaeological resources, and the Tribes were concerned that retaining the bridge would enable pothunters and looters to access the island after the transfer and dig through their cultural heritage.

Considering these factors, the demolition of the High Bridge superstructure (consisting of the wood walkway and support framing) and removal of the concrete crossbeams and modifications to the footings constitutes the most reasonable option for eliminating a public safety hazard, protecting upland archaeological resources, and improving the scenic views along the ocean shore.

Public Costs – There are no reasonable special measures which might reduce or eliminate significant public costs. Prior to submission of the application, the applicant shall consider alternatives such as nonstructural solutions, provision for ultimate removal responsibility for structures when no longer needed, reclamation of excavation pits, mitigation of project damages to public interests, or a time limit on project life to allow for changes in public interest.

No alternatives to the removal to the wood walkway and support structure of the High Bridge superstructure have been discussed in the application. The application does however; submit four alternatives for the removal of the bridge crossbeams, footings and foundations and an analysis of each method prescribed. They include 1) full removal, 2) modifying the footings, 3) modifying the footings closest to shore (Gregory Point), and

4) leaving the footings intact. Three of the bridge towers are in the strait between Gregory Point (mainland) and Chief's Island. Each tower has two sets of footings on a single concrete foundation yielding four footings per tower. One individual concrete footing has been knocked over into the intertidal channel, and a crossbeam hangs precariously by structural rebar from the adjacent footing.

The application proposes to implement Alternative #2 (modifying the footings) which includes the partial removal of the vertical upright footings, "if it is found to be both logistically feasible and consistent "with the terms of the Corps of Engineers Nationwide Permit, and the concurrence findings from the USFWS and NMFS.

Compliance with LCDC Goals – The proposed project shall be evaluated against the applicable criteria included within Statewide Planning Goals administered by the Department of Land Conservation and Development.

For the purposes of this report, OPRD has reviewed the project against Goal 5, Open Spaces, Scenic and Historic Areas and Natural Resources, Goal 17, Coastal Shorelands, Goal 18, Beaches and Dunes and Goal 19, Ocean Resources. Because the project is the removal of an existing structure, no significant adverse impacts have been identified within the context of each Statewide Goal. The purpose of the project is not shoreline protection, but the removal of a public safety hazard and improvements to the scenic values of the area.

II. SCENIC STANDARDS, OAR 736-020-0015

Projects on the ocean shore shall be designed to minimize damage to the scenic attraction of the ocean shore area.

Natural Features – The project shall retain the scenic attraction of key natural features, for example, beaches, headlands cliffs, sea stacks, streams, tide pools, bedrock formations, fossil beds and ancient forest remains.

The proposed project will improve the visual appearance of the intertidal channel and the ocean shore area that separates the two subject parcels. The application states that the footings have been individually identified in the application (4a-b to 9b in the channel) and this option would modify the footings by breaking them down to be less regular in appearance and eventually resemble natural formations. The benefits of this action to make the footings look more natural would include:

- 1) Reducing a minor hazard to navigation
- 2) Aesthetic benefits of creating a more natural-looking appearance
- 3) Reduction in risk to public safety

None of the key natural features such as ocean cliffs, small pocket beaches, rocky intertidal areas, tide pools and bedrock formations within and adjacent to Gregory Point and Chief's Island will be affected by the removal of the High Bridge structure.

Shoreline Vegetation – The project shall retain or restore existing vegetation on the ocean shore when vital to scenic values.

Some marine algae are present on the foundations of each concrete tower structure within the intertidal zone, but very little or none exist on the vertical footings that will be modified. No marine algae will be removed during the project demolition, although there may be some temporary vegetative damage when footings are broken down and fall to the rocky shore area.

View Obstruction – The project shall avoid or minimize obstruction of existing views of the ocean and beaches from adjacent properties.

The project will remove the High Bridge superstructure that connects the mainland Gregory Point to the offshore Chief's Island. Under the proposed condition, a more natural and unobstructed view of Chief's Island pocket beach, bluffs and rocky shores along its eastern shore will be achieved.

Compatibility with Surroundings – The project shall blend in with the existing shoreline scenery (type of construction, color, etc.).

The applicant has proposed reducing the height of each vertical footing to create a more natural looking rocky intertidal area that will blend into the existing bedrock formations, large rocks and boulders found in the area. The concrete foundations will remain in place but marine vegetation and marine invertebrates are expected to recolonize and blend into some of the areas exposed by modifications to the footings.

III. RECREATION USE STANDARDS, OAR 736-020-0020

Recreation Use – The project shall not be a detriment to public recreation use opportunities within the ocean shore area except in those cases where it is determined necessary to protect sensitive biological resources such as state or federally listed species.

The area is self-limiting to recreational use due to steep coastal cliffs, rock outcroppings, surge channels, very slippery bedrock and boulders, tidal elevations, and the height and intensity of ocean swells crashing on the rocks. During medium and high tides during the year, water levels often reach the upper area of the rocky shores and bluffs, and may cover the entire channel and small pocket beaches, thus severely limiting any shore side recreational use.

Recreation Access – The project shall avoid blocking off or obstructing public access routes within the ocean shore area except in those cases where it is determined necessary to protect sensitive biological resources such as state or federally listed species.

The majority of concrete foundations and footings supporting the High Bridge superstructure are located in the intertidal channel that separates the two subject parcels. These structures currently block some public access across the bedrock shelf and tide pools, but adequate public access will remain around the sides of the concrete foundations proposed to remain on the ocean shore.

IV. SAFETY STANDARDS, OAR 736-020-0030

The project shall be designed to avoid or minimize safety hazards to the public and shoreline properties. The following safety standards shall be applied, where applicable, to each application for an ocean shore permit.

Structural Safety – The project shall not be a safety hazard to the public due to inadequate structural foundations, lack of bank stability, or the use of weak materials subject to rapid ocean damage.

The proposed demolition of the High Bridge superstructure will eliminate a public safety hazard that is currently in structural disrepair due to age, condition of bridge materials and a lack of maintenance.

Obstructional Hazards – the project shall minimize obstructions to pedestrians or vehicles going onto or along the ocean shore area.

The area is adjacent to one of the most popular public recreation sites on the coast, is somewhat isolated and difficult to reach, and consequently receives relatively little use. Ocean shore access is limited by climbing over rocks at low tide from Sunset Bay State Park or from Lighthouse Beach, or by a kayak or small boat in relatively mild ocean conditions. There will be no change in the north and south access for recreational users through the intertidal area.

Neighboring Properties – The project shall be designed to avoid or minimize ocean erosion or safety problems for neighboring properties.

The demolition and removal of the High Bridge will not cause any ocean erosion or safety problems for adjacent and neighboring properties.

Property Protection – Beachfront property protection projects shall be designed to accomplish a reasonable degree of increased safety for the on-shore property to be protected.

The purpose of the project is remove a public safety hazard and improve scenic views and does not involve any shoreline protection for upland properties.

V. NATURAL AND CULTURAL RESOURCE STANDARDS, OAR 736-020-0030

Projects on the ocean shore shall avoid or minimize damage to the following natural resources, habitat, or ocean shore conditions, and where applicable, shall not violate state standards:

Fish and wildlife resources including rare, threatened or endangered species and fish and wildlife habitats.

Gregory Point is designated as a Research Reserve by the Oregon Department of Fish and Wildlife (ODFW) with 57 acres of subtidal, 3.5 acres of intertidal area with associated rocks northwest of the mouth of Sunset Bay. ODFW manages the site to maintain the ecological integrity of the area for long-term research projects, and allows a continued level of current use that does not interfere with research objectives.

The US Fish and Wildlife Service (USFWS) have excluded Chief's Island from the Oregon Islands National Wildlife Refuge, but federal and state listed species are known to occur or very likely to occur in the area, including the California Brown Pelican, Black Oyster Catcher, Marbled Murrelet, Bald Eagle, American Peregrine Falcon, Aleutian Cackling Goose, Northern Spotted Owl and the Stellar Sea Lion. .

In compliance with federal laws, the applicant has consulted with the USFWS and the National Marine Fisheries Service (NMFS) with regard to listed species present in the area and determined that the project would "not likely to adversely affect" (informal consultation required). A condition of an approved OPRD Ocean Shore Alteration Permit, would require the applicant to follow any permits, agreements and conditions established by USFWS and NMFS.

According to the Joint Permit Application Form submitted by the USCG to USACE, "Temporary disturbance to the rocky intertidal area from demolition is expected to be minimal in size and short in duration. Temporary scaffolding that may be erected in the water adjacent to the bridge footings during demolition would be placed on matting (if feasible) to minimize impacts to the rocky intertidal habitat. Scaffolding would be made of steel or another non-hazardous, non-leaching material and would be removed promptly after demolition was complete. Scaffolding, or other temporary supports if needed, would not likely remain in the water for more than a few weeks. Restoration for temporary impacts within the intertidal zone will not be required". The OPRD application also details other specific measures to avoid and minimize impacts to the natural environment during construction.

Estuarine values and navigation interests.

The narrow strait between Gregory Point and Chief's Island does not provide navigational uses for large watercraft because it's hazardous currents, shallow depth, intermittent exposure, and topography containing finger reefs and large boulders within the channel. The project is not adjacent to an estuary, and navigational issues have been addressed by the USCG.

Historic, cultural and archeological sites.

Notice of the application was provided to the State Historic Preservation Office, and to the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians. Chief Island and much of Gregory Point have been identified as containing archaeological resources, as the area was a village site for Native Americans for hundreds of years prior to European settlement.

The MOA between the USCG, SHPO, BIA, CTCLUSI and the Coquille Indian Tribe details the specific measures the USCG shall avoid to minimize impacts to the cultural and historical resources during demolition and removal of the High Bridge structure.

Natural areas (vegetation or aquatic features).

The application identifies specific measures to avoid or minimize damage to natural resources, habitat, and the ocean shore area. There will be minimal loss of marine algae and or marine invertebrates on the concrete footings with removal of the vertical structures. Recolonization of marine organisms is expected to begin immediately following the alteration of the footings.

Air and water quality of the ocean shore area.

Federal and state agencies will require the applicant to implement an "Erosion and Sediment Control Plan" and a "Spill Prevention Plan" according to Department of Environmental Quality (DEQ) guidelines to limit the risk of sediments and pollutants from entering the intertidal area and water during demolition and removal.

Areas of geologic interest, fossil beds, ancient forest remnants.

None of these features have been identified at the site.

When necessary to protect native plant communities or fish and wildlife habitat on the subject or adjacent properties, only native, non-invasive, plant species shall be used for revegetation.

Disturbed intertidal areas caused by the removal of the concrete footings are expected to recolonize rapidly with native marine algae and marine invertebrates commonly found in the project area.

VI. PUBLIC COMMENT

Notice of the proposed project was posted at the site for 30 days in accordance with ORS 390.650. Individual notification and a copy of the application were mailed to government agencies and individuals on OPRD's ocean shore mailing list. OPRD received two requests for a public hearing, and one letter in opposition to the project during the written comment period.

VII. FINDINGS SUMMARY

Project Need – The proposed demolition and removal of the Cape Arago High Bridge superstructure is necessary to eliminate an attractive nuisance that is currently a public safety hazard from unauthorized access to Chief’s Island from Gregory Point, and to recreational users accessing the immediate ocean shore area.

The removal of the concrete crossbeams and modification of the concrete footings is necessary to reduce the risk to public safety accessing the rocky shore and intertidal area, and improve to the visual aesthetics of the ocean shore from nearby vantage points. Complete removal of the concrete crossbeams and partial removal of the vertical upright footings as described in Alternative #2 would remedy OPRD’s concerns regarding safety for recreational users and improving the natural features and scenic values found in the area.

The following checklist summarizes whether the application satisfies the general, scenic, recreation, safety and natural and cultural resource standards as defined in OAR 736-020-0010 through 736-020-0030:

Standard	Yes	No	Standard	Yes	No
Project Need	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Structural Safety	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Protection of Public Rights	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Obstructional Hazards	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Public Laws	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Neighboring Properties	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alteration and Project Modifications	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Property Protection	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Public Costs	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Fish and Wildlife Resources	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Compliance with LCDC Goals	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Estuarine Values and Navigation Interests	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Natural Features	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Historic, Cultural and Archeological Sites	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Shoreline Vegetation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Natural Areas	<input checked="" type="checkbox"/>	<input type="checkbox"/>
View Obstruction	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Air and Water Quality of the ocean shore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Compatibility with Surroundings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Areas of Geologic Interest	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Recreation Use	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Use of Native Plant Species when Necessary	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Recreation Access	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>	<input type="checkbox"/>

VIII. STAFF RECOMMENDATION:

Based on an analysis of the facts and in consideration of the standards evaluated under OAR-736-020-0005 through OAR 736-020-0030, I recommend the following action:

- Approval
- Approval with conditions
- Denial

Tony Stein
Ocean Shores Coordinator