

**OREGON STATE LAND BOARD
DEPARTMENT OF STATE LANDS**

**DECLARATION OF OWNERSHIP OF THE ROGUE RIVER BETWEEN RIVER
MILES 68.5 AND 157.5**

Pursuant to ORS 274.400 through 274.412 and OAR 141-121-0000 through 141-121-0040, the Oregon State Land Board issues this declaration of ownership of the Rogue River between River Miles 68.5 and 157.5. The Oregon Department of State Lands completed the Rogue River Final Navigability Report. At its regular meeting on June 10, 2008, the Land Board considered the evidence in the agency record, considered the Rogue River Final Navigability Report, and adopted the findings and conclusions of the Department as stated in the report. The Rogue River Final Navigability Report and the related proceedings of the Land Board, including its meeting on June 10, 2008, are incorporated into this declaration. This declaration is based on the agency record of the Rogue River Navigability Study.

The Land Board hereby declares the nature and extent of the state's interest in the land of the Rogue River between River Mile 68.5 (at Grave Creek) and 157.5 (at Lost Creek Dam) ("the 89-mile study segment"). In 1859 the 89-mile study segment of the Rogue River was used or susceptible to being used in its ordinary and natural condition as a highway of commerce over which trade and travel could have been conducted in the customary modes of trade and travel at that time. There was no federal action that reserved or otherwise prevented a transfer of ownership to the state. The state has owned – and continues to own – the land underlying the study segment of the Rogue River since statehood. Furthermore, the state's ownership extends to all lands located below the ordinary high water line along the 89-mile study segment, unless lawfully conveyed or granted to another entity by the state since statehood. The navigability study process, including this declaration, does not address the issue of whether events may have altered the location of property boundaries since statehood. In addition, the nature of the ownership includes two components: fee simple title (the *jus privatum*) and dominion as the public's trustee over the natural resource for public trust uses such as navigation, commerce, fisheries, and recreation (the *jus publicum*).

The Land Board further declares the following:

- (1) The 89-mile study segment of the Rogue River is located in Josephine and Jackson Counties. The confluence of Grave Creek with the Rogue River is at River Mile 68.5 on the Rogue River and within Section 1, Township 34 South, Range 8 West of the Willamette Meridian within Josephine County. Lost Creek Dam (also known as the William L. Jess Dam) is on the Rogue River at River Mile 157.5 and within Section 26,

Township 33 South, Range 1 East of the Willamette Meridian within Jackson County.

- (2) The 89-mile study segment of the Rogue River is a title navigable waterway.
- (3) The State of Oregon owns all rights, title, and interest in and to the lands located below the line of ordinary high water (as defined in OAR 274.005) along the 89-mile study segment of the Rogue River, unless lawfully granted or conveyed by the state since statehood on February 14, 1859, and as affected by the principles of accretion, erosion, and avulsion.
- (4) The public has rights to use the title navigable reach of the 89-mile study segment of the Rogue River for public trust uses including fishing, navigation, commerce, and recreation.

As provided in ORS 274.409 and 274.412, any person aggrieved by this declaration may seek judicial review of the declaration in the manner provided in ORS Chapter 183 (including ORS 183.310 through 183.550) for judicial review of orders in other than contested cases.

This declaration will be published not less than once each week for three (3) successive weeks in the following newspapers: The Oregonian, Grants Pass Courier, and Medford Mail Tribune. This declaration will also be sent via United States Mail to all affected property owners (as defined in OAR 141-121-0010), those persons who have requested such notices, and to other interested persons (including local governments, and watershed councils). This declaration will also be posted on the Department of State Lands' Web site.

Approved by the Oregon State Land Board, this 10th day of June, 2008.

Louise Solliday, Director
Department of State Lands