



OCEAN SHORE  
ALTERATION PERMIT

Application Approved with Conditions:



Application Denied:



Date: May 8, 2006

Applicant: Scott McKenzie

OPRD File Number: BA-600-05

County: Curry

Project Location: Elk River Spit, Scott McKenzie Ranch, Sixes, Oregon  
T32S R15W Sec 18& 19 TL 1806 & 1807

OPRD's review included a staff inspection of the site and evaluation of the project against the Ocean Shore Permit Standards, OAR-736-020-0005 through 736-020-0030.

**Project Description:** The major goal of the project is to restore and maintain suitable breeding habitat for the state and federally listed threatened Western snowy plover (WSP). Habitat restoration will involve removing the non-native European beach grass and grading the dune to approximately the level it was in 1967. 88,500 cubic yards of sand will be removed from the fore-dune by bulldozer creating a flat open beach with sparse vegetation that will be conducive to WSP breeding. The removed sand will be placed on the beach at the tidal level where it will return to the littoral transportation cell by natural forces.

*ORS.390.605 (2) defines the "ocean shore" to mean the land lying between extreme low tide of the Pacific Ocean and the statutory vegetation line as described by ORS 390.770 or the line of established upland shore vegetation, whichever is farther inland. In the location of the proposed project the statutory vegetation line is located farther inland.*

The project is proposed to be located



Seaward of the statutory vegetation line



Seaward of the line of established upland shore vegetation

and therefore within OPRD's jurisdiction to make a decision on your application.

Submitted plans: Attached  (See Condition 3)

Not Applicable

Based on the evaluation of the above standards, staff inspections of the site, and consideration of public and agency comments, the Oregon Parks and Recreation Department:



Approves your application  
for the sand alteration project.



Denies your application

Conditions:

1. Prior to construction, the Permittee or subsequent owners (collectively, "Permittee") shall file with the Curry County Clerk, a Declaration of Conditions and Restrictions. A form is attached for your use in satisfying this condition. The Permittees shall pay any filing and recording costs. Upon recordation, certified copies shall be submitted to OPRD as proof of compliance with this permit condition. Failure to provide OPRD with said certified Declarations of Conditions and Restrictions shall nullify this permit and all authorizations contained herein.
2. This approval does not affect any obligation the Permittee might have to other persons or agencies, local, state or federal. regulations.
3. Work approved under this permit is authorized through May 8, 2011 and subject to all permit conditions, requirements outlined in the "Elk River Spit Restoration Plan" (Restoration Plan) dated April 17, 2006, and the draft "Habitat Conservation Plan for the Western Snowy Plover (HCP)."
4. Permittee shall institute a pre and post monitoring program to ensure minimal impact to the Elk River estuary. A monitoring program will be determined in consultation with Department of Geology and Mineral Industries (DOGAMI), U.S. Fish and Wildlife Service (USFWS), Oregon Department of Fish and Wildlife (ODFW), Scott McKenzie, and Oregon Parks and Recreation Department (OPRD).
5. Survey points will be fixed to determine the projects proposed height of the dune to ensure it is not lowered below an agreed upon elevation.
6. Project is to be performed outside the major sport fishing recreation season to limit safety concerns when operating heavy equipment in a seasonally high recreation traffic area. Contact Oregon Department of Fish and Wildlife, Gold Beach Office for information on appropriate work times. While use of heavy equipment is occurring, personnel shall be available to ensure that onlookers are kept a safe distance away and that public safety is not compromised.
7. The sand will be introduced into the system incrementally as outlined in the geological report completed by Jonathan Allan of DOGAMI and the Restoration Plan. The project will start at the natural bend in the river and proceed north.
8. As per the Elk River geological report by Jonathan Allan, to reduce the possibility of the sand moving north and closing the natural mouth of the river, the project will occur at a time of year when sand movement to the north will be minimal.
9. Permittee shall hold annual meetings for the life of the permit every spring. The meetings will be held to discuss the projects impact on the various processes of the Elk River and analyze data produced by the monitoring program. Participants should include Permittee, OPRD, ODFW, USFWS, NW Steelheaders, and DOGAMI. If information gathered through the monitoring program is determined to be detrimental to the Elk River processes, as agreed upon by participants, the project will be halted and the permit reviewed for possible changes in procedures/conditions or revoked entirely.
10. The draft HCP will be the guiding document in the management of the Elk River habitat restoration area. Where conflicts occur between the HCP and other documents and management directives, the HCP will be the final authority. Refer to Section 14 of the HCP.
11. Permittee shall notify the South Coast Coordinator at 541-888-9324 at least 48 hours prior to the initiation of dune work.
12. Reintroduction of American beach grass, the state listed pink sand verbena, and/or other native Oregon coastal dune plants will be encouraged to reduce the impact to the Elk River from wind driven sand. OPRD will make the final decision to reintroduce native plants in consultation with OPRD botanist, USFWS, and Oregon Department of Agriculture (ODA).
13. Large driftwood and logs will be retained on the dunes to prevent excessive wind driven sand issues.
14. If requested by USFWS, OPRD will not consider beach restrictions at the site unless, or until, at least one pair of Western snowy plovers show signs of nesting patterns as described in the HCP or until the Elk River site becomes a priority unoccupied site as outlined in the HCP. Refer to Section 14 of the HCP.
15. Use of equipment or vehicles on the beach requires a separate permit from OPRD. Use of public beach access routes, construction of any roads or other temporary access improvements, and timing of inspections shall be subject to conditions of the Equipment Access Permit. Contact the South Coast Coordinator at 541-888-9324 for necessary permits.

16. The Permittee shall agree to save and hold harmless the State of Oregon, the Commission, and its members, and all officers, agents and employees of the Department, from any claim, suit or action whatsoever for damages to property, or injury or death to any person or persons due to negligence of Permittee, its or their officers, agents or employees, and arising out of the performance of any work or project covered by the granting of a permit.
17. In no event shall the issuance of any permit hereunder be construed as a sale, lease, or grant of easement, or any form of conveyance of the state recreational area, ocean shore or submerged lands.
18. The duration of any permit granted hereunder shall be solely within the discretion of the Department. The Director may revoke, suspend or not renew an Ocean Shore permit only after giving notice and opportunity for a hearing as provided in ORS 183.415 to 183.430, 183.440 to 183.460 and 183.470.
19. The Permittee shall comply with the provisions of ORS 390.235 through 390.240, ORS 358.905 through 358.955 and OAR 736-051-0060 through 736-051-0090 as these statutes and other statutes and rules affect the discovery, excavation, salvage, removal and disposition of archaeological resources and the permitting requirements for these activities as they affect archaeological sites on public and private land. If, during the period covered by this permit, the Permittee shall fail to comply with the conditions provided herein and otherwise imposed by the Department, the Department shall exercise its authority under Oregon Revised Statutes 390.661 through 390.676; 390.990 through 390.995, and the provisions of OAR 736-020-0100 to cease any further activity by the Permittee on the ocean shore except as directed by the Department. In such circumstances, the Department may assess a civil penalty according to the provisions of OAR 736-080-0005 through 736-080-0070.
20. If, during the period covered by this permit, the Permittee shall fail to comply with the conditions provided herein and otherwise imposed by the Department, the Department shall exercise its authority under Oregon Revised Statutes 390.661 through 390.676; 390.990 through 390.995, and the provisions of OAR 736-020-0100 to cease any further activity by the Permittee on the ocean shore except as directed by the Department. In such circumstance, the Department may assess a civil penalty according to the provisions of OAR 736-080-0005 through 736-080-0070.

**/s/ Tim Wood**

Tim Wood  
Director  
Oregon Parks and Recreation Department

Cc: Fred Seavey, USFWS  
Jonathan Allan, DOGAMI  
Don Peabody, NW Steelheaders  
Jim Pex, Steelheaders  
Steve Williams, DLCD  
Andy LaTomme, OPRD Area 4 Manager

**Appeal Process**

*Any person aggrieved or adversely affected by the grant of a permit or the conditions imposed on the permit may file a written request for a hearing with the Parks and Recreation Director. The request must be received within 30 days of the date of the permit. The hearing shall be conducted as a contested case in accordance with ORS 183.415 to 183.430, 183.440 to 183.460 and 183.470*