

Oregon Parks and Recreation Commission

April 27, 2016

Agenda Item: 9a

Action

Topic: Request to Amend Scenic Bikeway Rules

Presented by: Richard Walkoski

Background:

The Commission granted approval to begin rulemaking to modify scenic bikeway rules in division 9 at its November 18, 2015 meeting. Notice of rulemaking was posted in the March 2016 Secretary of State's bulletin and comments were accepted through March 25th, 2016. Four public comments were received. Comments are included in attachment A. All comments that were directly relevant to the rule were in support of the changes.

While no changes were made as a result of the public comments, staff has requested a minor wording change to the description of committee members: Instead of the term "citizen representative" staff felt that the term "at-large" was more descriptive, so that change was made. All proposed rule changes including the latest wording change have been reviewed for legal sufficiency by Steven Shipsey, Assistant Attorney General.

These proposed rule revisions will align the rule with current procedures, change committee membership to include more diverse representation, and clarify the Oregon Recreation Trails Advisory Council's role in the designation process.

Prior Action by Commission: On November 18, 2015, the Commission approved a staff request to begin rulemaking for scenic bikeway rules in chapter 736, division 9.

Action Requested:

Staff requests adoption of the permanent modifications to OAR 736-009-0025 and 736-009-0030 which are outlined above and included in attachments B and C.

Attachments: Attachment A – All public comments received
Attachment B – OAR 736-009 revisions (markup)
Attachment C – OAR 736-009 revisions (clean)

Prepared by: Alexandra Phillips

From: ORPrdSupport@egov.com
To: [PUBLICCOMMENT * OPRD](#)
Subject: Input Received: Scenic Bikeway rulemaking comment
Date: Thursday, January 21, 2016 12:16:21 PM
Attachments: [Scenic Bikeway rulemaking comment - Entries.csv](#)

Scenic Bikeway rulemaking comment

Submitted: 1/21/2016 12:16:14 PM

Comment Looks ok to me. I do see some good updates. The only concern I have is that no OPRD representative will be on the selection committee. I think a state parks representative should be included.

Name Anita Metlen

Email a.m.twigg@hotmail.com

From: ORPrdSupport@egov.com
To: [PUBLICCOMMENT * OPRD](#)
Subject: Input Received: Scenic Bikeway rulemaking comment
Date: Friday, January 22, 2016 11:24:09 AM
Attachments: [Scenic Bikeway rulemaking comment - Entries.csv](#)

Scenic Bikeway rulemaking comment

Submitted: 1/22/2016 11:24:06 AM

Comment I think the proposed changes make sense and provide a bit more flexibility on how things can operate. Broadening the membership on the advisory committee is a good thing.

Name Don Strahan

Email dontravel@ymail.com

From: ORPrdSupport@egov.com
To: [PUBLICCOMMENT * OPRD](#)
Subject: Input Received: Scenic Bikeway rulemaking comment
Date: Sunday, January 24, 2016 8:56:21 AM
Attachments: [Scenic Bikeway rulemaking comment - Entries.csv](#)

Scenic Bikeway rulemaking comment

Submitted: 1/24/2016 8:56:10 AM

Comment More "Scenic Bikeways" are GOOD! but need education on ORS 811.065 Please help ranchers with big pickups and cow trailers and others to understand ORS 811,065 and other "SAFE PASSING LAWS" (see stc-law.com/bicycle). Many of the existing Scenic Bikeways in Union, Baker and Wallowa Counties are very dangerous to bickers because NO ONE over there seems to know they have a legal responsibility to pass bicycles at a "SAFE DISTANCE". I feel this could be helped by and education programs with local law enforcement and schools.

Name Gary Clement

Email zen-alaska@hotmail.com

From: [Doug Parrow](#)
To: [PUBLICCOMMENT * OPRD](#)
Cc: [PHILLIPS Alex * OPRD](#)
Subject: Proposed Scenic Bikeway Rules
Date: Wednesday, March 23, 2016 12:42:05 PM

Hello,

I am a member of the Scenic Bikeways Committee and would like to lend my support for the changes in the Scenic Bikeways rules proposed by OPRD staff. The changes will clarify a number of issues with we have been confronted as we have worked to advise and support the Department in implementation of the Scenic Bikeways program.

The proposed rules also would make several changes in the membership and appointment process for the committee. I strongly support these changes. The current rules suggest that one member of the committee represent an advocacy organization. That is the position that I fill on the committee. I was appointed to the committee on the recommendation of the Bicycle Transportation Alliance (BTA). While I appreciate that the BTA recommended me for membership on the committee and have striven to act in a manner consistent with the BTA's objectives, I have found it awkward to describe myself as representing a single, specific advocacy organization. In fact, I have viewed my role on the committee as offering my best advice and assistance to further the Scenic Bikeways program in a manner consistent with my understanding of the needs and expectations of all bicyclists and bicycling. Certainly, my background and involvement in bicycle advocacy lends perspective to my efforts, but I cannot characterize that perspective as specific to that of any single organization in a manner that would reflect "representation" of that organization on the committee.

The proposed rules would group the position that I currently fill with two others described as "citizen members." This will allow the OPRD Director to seek recommendations from organizations such as the BTA while retaining the flexibility to fill positions on the committee with members who can best meet the needs of the Scenic Bikeways program. I am confident that the Director will continue to appoint committee members who have a background in advocacy and commitment to the objectives of the program.

I urge adoption of the proposed rules. Thank you for the opportunity to comment, and to participate in an innovative and exciting program.

Doug Parrow
6782 Amy Ln NE
Keizer, OR 97303
503.931.0588

736-009-0025

Oregon Scenic Bikeways Committee

(1) The director shall appoint a Scenic Bikeways Advisory Committee composed of 11 members.

(a) The following committee members shall be nominated by their respective directors for appointment:

(A) A representative of the Oregon Tourism Commission (dba Travel Oregon);

(B) A representative from the Oregon Department of Transportation; and

(C) A representative of a Federal lands management agency

(D) A member of the Bicycle and Pedestrian Advisory Committee established pursuant to ORS 366.112

(b) The following committee members shall be appointed by the director:

(A) A representative of Oregon Destination Marketing Organizations;

(B) A liaison from the Oregon Recreation Trails Advisory Council (ORTAC) established pursuant to ORS 390.977;

(C) A representative of counties who shall be selected in consultation with the Association of Oregon Counties;

(D) A representative of cities who shall be selected in consultation with the League of Oregon Cities; and

(E) Three at-large members

(2) Committee members appointed under subsection (1)(b) may serve two consecutive four-year terms on the committee. The committee shall include one representative each from:

~~(a) The department;~~

~~(b) Oregon Tourism Commission (dba Travel Oregon)~~

~~(c) Oregon Department of Transportation~~

~~(d) A Federal Lands Manager (U.S. Forest Service or Bureau of Land Management~~

~~(e) Oregon Association of Convention and Visitors Bureaus;~~

~~(f) Oregon Recreation Trails Advisory Council established pursuant to ORS 390.977;~~

~~(g) Oregon Bicycle and Pedestrian Advisory Committee established pursuant to ORS 366.112;~~

~~(h) Association of Oregon Counties;~~

~~(i) League of Oregon Cities;~~

~~(j) Representative of bicycle advocacy organization; and~~

~~(k) Citizen Representative.~~

~~(2) Members may serve two consecutive four-year terms on the committee. However, the director shall appoint the first committee members following the effective date of this rule to serve a two, three, or four-year term.~~

(3) The director shall appoint the chair from the committee membership, considering the recommendations of the committee.

(4) The committee shall meet at times and places specified by the call of the director.

(5) A majority of the members of the committee constitutes a quorum for the transaction of business.

(6) Function and Duties of Scenic Bikeways Committee:

(a) The committee shall evaluate proposed Oregon Scenic Bikeways against the criteria provided in OAR 736-009-0030 and the Oregon Recreation Trails System Act, ORS 390.950 to 390.989 and 390.995(2). The committee shall make a recommendation to the director on each application for a proposed Oregon Scenic Bikeway.

(b) The committee shall evaluate each Oregon Scenic Bikeway route at least once every five years. ~~The department and Oregon Department of Transportation will provide the committee an inventory of the features of the route determined by riding a bike along the route.~~ The committee may recommend that the department improve, remove, or reroute portions of a route no longer meeting the criteria for an Oregon Scenic Bikeway.

Stat. Auth.: ORS 390.971(8)

Stats. Implemented: ORS 390.956, 390.959, 390.962, 390.968 & 390.971

Hist.: PRD 7-2008, f. & cert. ef. 9-15-08; PRD 21-2009, f. & cert. ef. 12-8-09

736-009-0030

Establishing Oregon Scenic Bikeways

Pursuant to ORS 390.962(1), the department prescribes the criteria in this rule in addition to those provided in the Oregon Recreation Trails System Act, ORS 390.950 to 390.989 and 390.995(2), for the designation of Oregon Scenic Bikeways.

(1) Oregon Scenic Bikeways may be comprised of bicycle paths, designated transportation corridors or a combination thereof. Oregon Scenic Bikeways may include route sections located in or near existing rights-of-way for roads or highways.

(2) Oregon Scenic Bikeways may be linear, loop, or a combination of linear and loop routes that are routes of superior scenic quality that inspire people to experience Oregon's natural beauty and cultural

~~heritage by bicycle encompass national, state, or regional scenic resources and shall generally meet these criteria:~~

- ~~(a) Linear routes connect to each other and other designated routes to the extent possible.~~
- ~~(b) Linear routes should be a minimum of 40 miles in length.~~
- ~~(c) Loop routes encompass regional or local scenic, cultural or historic features.~~
- ~~(d) Scenic loop routes should be a minimum of five miles in length and should return the cyclist to the point of origin.~~
- ~~(e) Scenic loop routes may be established as connections to existing linear Oregon Scenic Bikeways or may be established as Oregon Scenic Bikeways in and of themselves.~~

(3) Pursuant to ORS 390.962(1), an Oregon Scenic Bikeway may be located:

- (a) Over public land with the consent of each governmental entity having jurisdiction over the lands designated; or
- (b) Over privately-owned lands in the manner and subject to the limitations provided in ORS 390.950 to 390.989 and 390.995(2).

(4) The Department will periodically call for Bikeway applications.

(45) Evaluation of Applications

- (a) To be considered as an Oregon Scenic Bikeway, a proponent must submit to the department a completed Oregon Scenic Bikeway Application form in the format specified by the department, ~~including a detailed Trail Management Plan.~~
- (b) The department will review each Oregon Scenic Bikeway proposal for completeness, including whether the application adequately addresses the considerations provided in ORS 390.965(2). The department will provide all complete, eligible applications to the committee. Incomplete or ineligible applications will be returned to the proponents with an explanation of the deficiencies.
- (c) The committee will consider routes for designation based on the criteria provided in sections (1)–(3) of this rule and the Oregon Recreation Trails System Act, ORS 390.950 to 390.989 and 390.995(2).
- (d) The committee shall conduct a field review of the proposed route, to include a review conducted on bicycles by no less than three (3) members of the committee.
- (e) The committee shall score the route against criteria established in the Oregon Recreation Trails System Act, ORS 390.950 through 390.989 and 390.995, and this rule, including but not limited to:
 - (A) Emphasis on use of public lands,
 - (B) Minimizing adverse effects on adjacent landowners,

(C) Harmony with and complement to established forest, agricultural, or other use plans, and

(D) Any natural features, agriculture, forest, unusual or unique landforms, vegetation, water components, scenic beauty and interest, as well as amenities available to the route.

(~~ef~~) Based on the application, field review and scoring the committee shall determine if the route qualifies to be recommended for designation as an Oregon Scenic Bikeway.

(g) The committee will forward recommendations for designation to ORTAC for consultation during an ORTAC public meeting.

(h) The committee will forward recommendations for designation to the director for approval to advance to the designation process.

(~~fi~~) If the committee does not recommend designating the route as an Oregon Scenic Bikeway, it shall provide comments and recommendations to the proponent. The proponent may reapply to the ~~committee-department~~ only after fully addressing the recommendations of the committee.

(~~56~~) Designation Process:

(a) The Proponent must submit to the department a completed Bikeway Plan in the format specified by the department.

(b) The department shall hold public meetings on the recommended designation as provided in ORS 390.965(1).

(~~ac~~) The committee shall provide each recommendation for designation as an Oregon Scenic Bikeway to the director.

~~(b) The department shall hold public meetings on the recommended designation as provided in ORS 390.965(1).~~

~~(c) The department will consult with the Oregon Recreational Trails Advisory Council as provided in ORS 390.977.~~

(d) After the public meetings required in subsection (b), ~~and in consultation with the council,~~ the director shall either:

(A) Submit the committee's recommendation to the commission for approval or denial of the proposed Oregon Scenic Bikeway; or

(B) Request that the committee provide further consideration of issues presented in the public meeting.

(~~67~~) Scenic Bikeway Management

(a) The department will enter into written cooperative agreements with landowners, federal agencies, other state agencies, local governments, private organizations and individuals as necessary to ensure

that the development, signing, operation, maintenance, location or relocation of the trail meet the Oregon Scenic Bikeway Standards.

(b) The department shall evaluate each Oregon Scenic Bikeway at least once every five (5) years. The department will provide the committee an evaluation of the Scenic Bikeway including any significant changes on the route that would diminish its scenic qualities and the strength of the local proponent group and inventory of the trail features. Upon review, the committee may recommend:

(A) The trail be improved to meet the standards of state designation; or

(B) Removal of Oregon Scenic Bikeway designation when or if the trail route no longer meets the criteria.

(c) Signing and Publication of Oregon Scenic Bikeway.

(A) Consistent with the requirements of ORS 390.959, the department will establish sign standards and coordinate sign placement for all routes that the commission designates as an Oregon Scenic Bikeway.

(B) The department will publish on its web page and make available standardized route maps for all Oregon Scenic Bikeways.

Stat. Auth.: ORS 390.971(8)

Stats. Implemented: ORS 390.956, 390.959, 390.962, 390.968 & 390.971

Hist.: PRD 7-2008, f. & cert. ef. 9-15-08; PRD 21-2009, f. & cert. ef. 12-8-09

736-009-0025

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(d) The committee shall conduct a field review of the proposed route, to include a review conducted on bicycles by no less than three (3) members of the committee.

(e) The committee shall score the route against criteria established in the Oregon Recreation Trails System Act, ORS 390.950 through 390.989 and 390.995, and this rule, including but not limited to:

(A) Emphasis on use of public lands,

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(D) Any natural features, agriculture, forest, unusual or unique landforms, vegetation, water components, scenic beauty and interest, as well as amenities available to the route.

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(i) If the committee does not recommend designating the route as an Oregon Scenic Bikeway, it shall provide comments and recommendations to the proponent. The proponent may reapply to the department only after fully addressing the recommendations of the committee.

(6) Designation Process:

(a) The Proponent must submit to the department a completed Bikeway Plan in the format specified by the department.

(b) The department shall hold public meetings on the recommended designation as provided in ORS 390.965(1).

(c) The committee shall provide each recommendation for designation as an Oregon Scenic Bikeway to the director.

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Oregon Parks and Recreation Commission

April 27, 2016

Agenda Item: 9b

Action

Topic: Rulemaking Request for the Oregon Main Street Revitalization Grant Program

Presented by: Chrissy Curran

Background

The legislature created the Oregon Main Street Revitalization Grant Program through HB 3562 in 2015 to help the local communities participating in the Oregon Main Street Network realize transformative downtown projects by addressing the difficulty of securing the necessary support of capital. SB 5507 authorized the issuance of lottery bonds in the amount that produces \$2.5 million in net proceeds and interest earnings, plus an additional amount necessary to pay bond-related costs.

Why do we need rules?

Rules would provide a tool for the Oregon Department of Parks and Recreation to implement legislative direction. The rules would provide general information to the public outlining the key components of the grant program and grant process.

What is the proposed rulemaking process?

Administrative Rules Advisory Committee

To ensure adequate public involvement and produce a better product, we are proposing the use of an Administrative Rules Advisory Committee. This Committee would include a range of interests who have been involved in or have expertise in downtown revitalization, historic preservation, or economic development. The Committee will also evaluate the rule's probable economic impact on small businesses, local governments, state agencies, and the public. The Committee would be scheduled to meet on May 10 or 11.

Public Hearing

To provide the public with the option of speaking about the proposed rules in addition to submitting written comment, the Department would hold a public hearing around July 25 after publishing notice in the *Bulletin* on July 1. Setting a public hearing date early gives the Department control over the timing of the process and assures the public of their options for participating.

Final Approval

The Commission would review the public comments and be able to approve the proposed rules at its September 13-14 meeting.

Prior Action by Commission: None

Action Requested: Staff requests approval to begin the rulemaking process.

Attachments: Draft Rules

Prepared by: Sandra Belson

Draft Rules

Based on Examples from Divisions 53 and 54.

Oregon Heritage Grants (OAR 736-053-0200 to 0235), Museum Grants (OAR 736-053-0100 to 0140), and Historic Cemetery Grants (OAR 736-054)

Red is from the statute (HB 3526)

Purpose

The purpose of OAR xx to xx is to establish the procedures and criteria that the Oregon Parks and Recreation Department will use when awarding Oregon Main Street Revitalization Grant Funds as provided in ORS 390 Sec. 262 and 264.

Definitions

“Department” means the Oregon Parks and Recreation Department (OPRD).

“Grant” means an award from the Oregon Main Street Revitalization Grant Program.

“Grantee” means an eligible applicant legally capable of executing and which has executed a grant agreement for project awarded an Oregon Main Street Revitalization Grant.

“Oregon Main Street Network” means the entity administered by the State Historic Preservation Officer designated under ORS 358.565 to provide assistance, training and technical services to communities in Oregon desiring to strengthen, preserve and revitalize their historic downtown commercial districts.

“Project completion” means satisfaction of all requirements of a grant agreement as determined after review or inspection by OPRD.

Eligible Applicants

In order to be eligible for a Main Street Revitalization Grant, applicants must

- (1) Be an organization that participates in the Oregon Main Street Network, and
- (2) Be an auditable organization with the ability to receive and expend the grant funds.

Application Procedure/Process

- (1) The Department shall announce through a variety of media the availability of, procedures for, deadlines and other information for applying for Oregon Main Street Revitalization Grants.
- (2) To apply for Oregon Main Street Revitalization Grants, applicants must submit their applications in a format prescribed by the Department by the specified deadline.
- (3) Applications must demonstrate the following:
 - (a) The applicant is eligible to apply for an Oregon Main Street Revitalization Grant;
 - (b) The proposed project qualifies for an Oregon Main Street Revitalization Grant;
 - (c) The applicant is capable of carrying out the proposed project;
 - (d) The proposed project would facilitate community revitalization; and
 - (e) The proposed project would meet the Secretary of the Interior's Standards for Rehabilitation of Historic Properties.

Evaluation of Applications

- (1) Eligible applications received by the announced deadlines shall be evaluated by the Department.
- (2) The Department shall invite the Oregon Department of Transportation and Business Oregon to provide representatives to serve on a review committee.
- (3) The Department shall rank applications in order of priority based on an evaluation of:
 - (a) The community's need for main street revitalization and economic development;
 - (b) The anticipated results of the proposed project in revitalizing the community;
 - (c) The applicant's level of participation in Oregon Main Street;
 - (d) The applicant's capability of carrying out the proposed project.
 - (e) The level of investment demonstrated through matching funds; and
 - (f) Compliance with any other criteria contained in the grant announcement.

Award of Grants

- (1) The State Historic Preservation Officer shall award the grants.
- (2) All awards will be subject to binding agreements between the Department and Grantee.
- (3) Grant agreements shall specify the terms and conditions of the grant award, generally including:
 - (a) total project costs, the match or share to be provided, and the amount of the grant;
 - (b) statement of work to be accomplished;
 - (c) products to be delivered; and
 - (d) when the grant-assisted project may begin, a schedule for accomplishing work, and deadlines for delivering products and completing the project.

Disbursement of Grant Funds

The Department will distribute grant funds to Grantees on a reimbursable basis after submission of billings on approved schedules specified in grant agreements. Grantees will supply information substantiating billings when requested by the Department. Grant funds may be disbursed in advance if Grantees can demonstrate a compelling need.

Recovery of Grant Funds

- (1) Grantees who fail to complete approved projects to the Department's satisfaction shall return all unexpended grant funds.
- (2) Grantees shall maintain records adequate for audit purposes for a period of not less than five years after project completion and shall reimburse the Department for any costs disqualified through audit findings.

Oregon Parks and Recreation Commission

April 27, 2016

Agenda Item:	9c	Action
Topic:	Request to go to Rulemaking – Chetco and Molalla State Scenic Waterways	
Presented by:	Trevor Taylor, Stewardship Manager	

Background:

Portions of the Chetco and Molalla Rivers have been designated as State Scenic Waterways. Governor Brown issued an Executive Order as the 2016 legislative session began, and since the lawmaking body did not override her order with a joint resolution, the designations took effect the day after the legislature adjourned in early March.

Basic scenic waterway protections are in effect now, and staff have already begun reviewing notifications for proposed changes within a quarter mile of the two waterways. To date, those written requests have involved timber harvests. Staff review harvest plans and normally recommend modifications to protect the view from the river to the extent possible.

In addition to general waterway rules, administrative rules are used to divide each scenic waterway into specific classifications. The classification scheme is based on the character of the waterway—from “remote and natural” to “urban and developed” and steps in between—at the time it is designated. The classifications are guidelines for OPRD and other agencies to evaluate how well new development and other modifications blend into the existing landscape. What is allowed and not allowed varies from between classification type, depending on what is compatible with the existing scene as viewed from the river.

Even after being classified, each waterway also has the option to operate under a tailored set of rules, and these tweaks are crafted through development of a management plan. Draft management plans for the Chetco and Molalla were developed with support from local working groups in 2015, but these ideas were not handled through a formal rulemaking process. Now that the waterways are official, we need to begin formal rulemaking. This will involve the assembly of a rules advisory committee to confirm the draft classifications and rules are appropriate, public review, and approval and adoption by the Commission.

If the Commission approves opening rulemaking, the rules advisory committee will work in May to draft language, take public comment in summer, and bring recommended language back for approval in September 2016.

Prior Action by Commission: Scenic Waterway recommendations, Item 10a, Nov. 2014, as amended by Item 11b, Apr. 2015. Receive draft management reports, Item 9a, Nov. 2015.

Action Requested: Approve request to begin rulemaking for new divisions of OAR 736-040 setting rules for the new scenic waterway designations on the Molalla and Chetco rivers.

Attachments: Scenic Waterway classifications.

Prepared by: Chris Havel and Laurel Hillmann

Oregon State Scenic Waterways Process and Classifications

The people of Oregon established the Oregon Scenic Waterways Program in 1970, recognizing that wise individual and public use of these special rivers and adjacent lands is necessary. It strives to achieve a balance between protecting the rivers' natural resources and the equally valuable lives and plans of the people who live along them.

The Oregon Parks and Recreation Department must be notified of certain activities proposed within ¼ mile of the bank of Oregon's designated scenic waterways. Such activities include cutting of trees, mining, construction of roads, railroads, utilities, buildings, or other structures. The proposed uses or activities may not be started until the written notification is approved, or until one year after the notice is accepted.

Process Overview

Written notification to the Oregon Parks and Recreation Department (OPRD) is required for certain activities proposed within Oregon scenic waterways. Such activities include cutting of trees, mining, construction of roads, railroads, utilities, buildings, or other structures. Commencement of the proposed uses or activities occurs upon OPRD approval, or one year after the notice is accepted.

Review Process

The following materials are online at <http://bit.ly/scenicwaterways> for your review and use:

- Scenic Waterways Act, Oregon Revised Statutes 390.805 to 390.940 (See "Oregon Administrative Rules and Oregon Revised Statutes");
- Scenic Waterways Rules, Oregon Administrative Rules, Chapter 736, Division 40 (See "Oregon Administrative Rules and Oregon Revised Statutes");
- Notification of Intent Form (See "Guidelines, Procedures & Forms");
- Timber Harvest Form (See "Guidelines, Procedures & Forms"); and,
- Staff Contact Information (See "Key Staff").

The Notification of Intent form is for the landowner to make written notification to OPRD. Acceptance of this form is dependent upon completion with the required information and attachments including landowner signature, location, activity, map drawing, etc. We ask that all drawings be no larger than 11"x17".

Upon acceptance of a complete notification by OPRD, the review process begins. Copies of the notification and all associated materials are provided to affected agencies and interested parties for their review and comment. Upon closure of the comment period, OPRD conducts a site visit to review the proposal. OPRD staff, the property owner or representative, and interested agencies typically attend the site visit. During the site visit, staff will consider whether the proposal meets the scenic waterway requirements, or whether modifications are necessary. After the site visit, OPRD determines whether the project will comply with the scenic waterway regulations. If the proposal is in compliance, OPRD will issue a written approval for the project. As required in the statute and rule, this process concludes within one year of receipt of a complete notification; however, OPRD works to finalize reviews within four to six weeks of accepting a complete notification.

If you have any questions, please do not hesitate to contact the staff person listed for your area.

THE OREGON SCENIC WATERWAYS ACT

History of the Act

Oregon is blessed with a diversity of river systems that richly contribute to our quality of life. Wise stewardship of the state's natural resources becomes increasingly important as the population along our rivers increases and development quickly follows.

Landowners along an Oregon Scenic Waterway likely feel a special "ownership" of the river. These people, along with many other Oregonians, seek to conserve and protect these rivers for their enjoyment today, and for their children's tomorrow. By a 2:1 margin, the people of Oregon voted to establish the Oregon Scenic Waterways Program in 1970, recognizing that taking responsibility for these "special" rivers and adjacent lands was necessary if they were to remain unspoiled.

Passage of the Scenic Waterways Act, in 1970, immediately set into motion a state protection program for certain rivers in Oregon. The program promotes cooperative protection and wise use of these rivers by federal, state and local agencies, individual property owners and recreation users. This Act is Oregonians' response to protecting the state's beautiful rivers. It tries to achieve a balance between protecting natural resources and granting the wishes of riverbank property owners.

What the Act Does

A major function of the Scenic Waterways Program is to protect the natural and scenic diversity of waterways by encouraging new development to blend in with what is already there. No attempt is made to restore scenic waterways to a pristine condition, and no claim is made to their beauty being present only in a natural, unaltered state. This program applies to all new developments. The ability to fit in and be concealed determines whether or not new development is acceptable.

Under the Act, OPRD must be notified of certain changes that landowners may want to make to their property, and those changes may be subject to review (for details, see pages 10-11).

The Scenic Waterway Program's goals are:

- To protect the free-flowing character of designated rivers for fish, wildlife and recreation. No dams, reservoirs, or impoundments are allowed on scenic waterways.
- To protect and enhance scenic, aesthetic and natural values, recreation, scientific research, and fish and wildlife qualities along scenic waterways. New development or changes of existing uses within a scenic waterway are reviewed before they may take place.
- To protect private property rights. The Act discourages unsightly structures or inappropriate developments that could be a nuisance to neighboring landowners or even depreciate property values. It prohibits pollution and the disturbance of adjacent surface lands by placer mining. It also prohibits the public use of private property without explicit consent of the landowner.
- To promote expansion of the scenic waterways system. The Act sets up a process and establishes criteria for adding new rivers to the system.
- To encourage other state agencies to act consistently with the goals of scenic waterways management. OPRD reviews plans and decisions made by other state agencies for possible impact on the scenic waterways system.

The Act Does Not:

- Restrict the use of existing water rights along scenic waterways. Once a river is designated, developments may remain and are protected.
- Allow public use of private property without consent of the landowner.
- Require the removal of existing development or private property uses.

OPRD administers the Oregon Scenic Waterways Act. Other state agencies, such as the Division of State Lands, and the Oregon Water Resources Department, also have special responsibilities. For a complete list of other agencies involved in the Act, see page 15.

THE PROGRAM

Scenic Waterways Designation

A river or river segment can be designated as an Oregon Scenic Waterway by one of three ways:

- **By the governor.** After studies by OPRD and favorable recommendations from OPRD and the Water Resources Commission, the governor may designate a scenic waterway. The new designation becomes effective if the Legislature has no objections.
- **Direct legislative action.** The Clackamas River was added to the system by the Legislature in 1975. In

fact, parts of new rivers (and one lake) were added this way in 1983, 1985 and 1987. The governor can veto this legislation at any point.

- **Public initiative.** The voters of Oregon, following a successful initiative campaign, established the program in 1970 by a vote of 2 to 1. In 1988 the system doubled as a result of Ballot Measure 7. The governor or the Legislature cannot veto public initiative.

Scenic Waterways Boundary

A scenic waterway includes the river and its shoreline, and all land and tributaries within one quarter mile (1320 feet) of its banks. Land outside of this isn't in the jurisdiction of the Scenic Waterways Program and isn't affected by the Oregon Scenic Waterways Act.

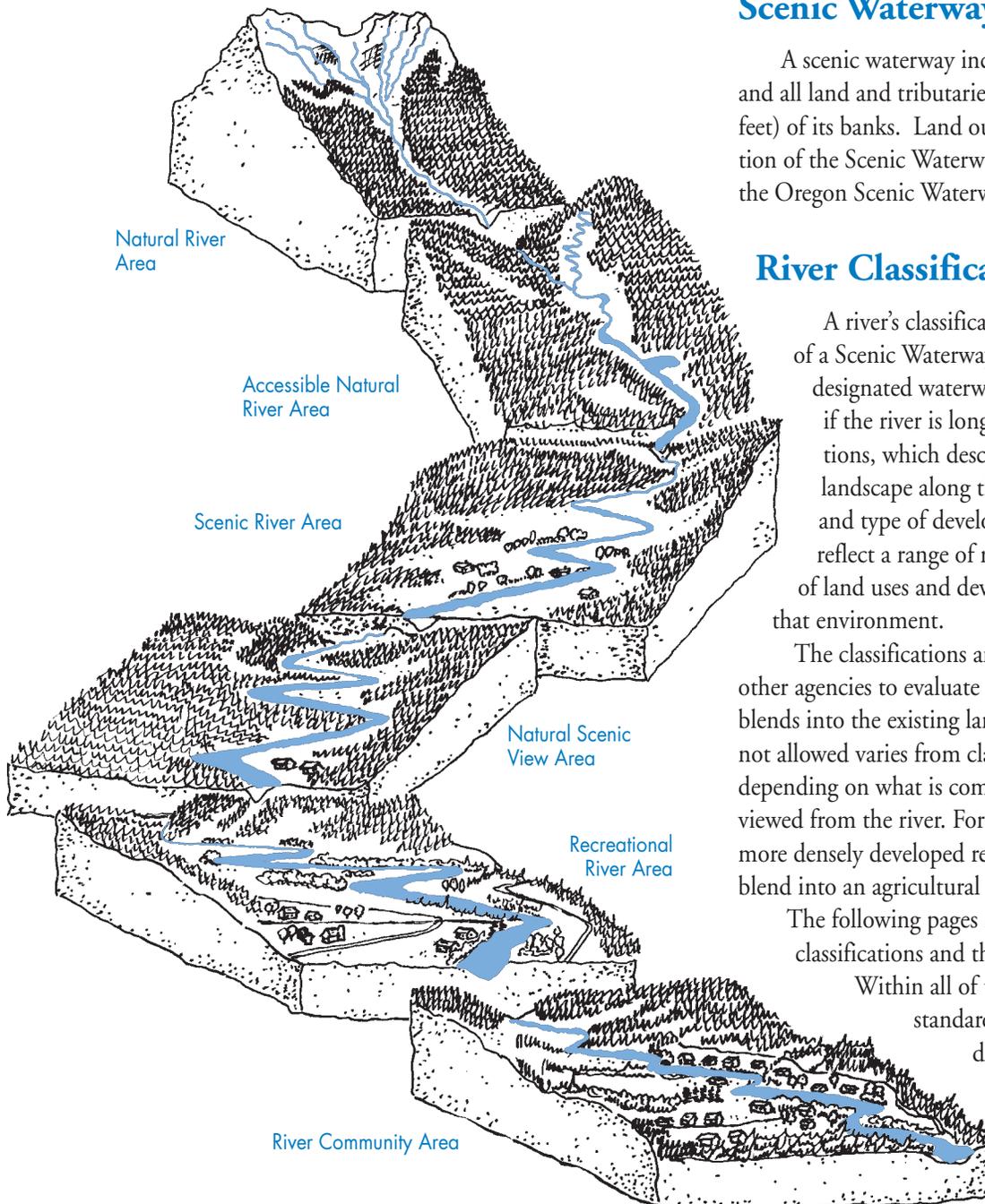
River Classification

A river's classification is an important component of a Scenic Waterway Management Plan. Each designated waterway is given one (or possibly more, if the river is long or complex) of six classifications, which describe the general appearance of the landscape along the river as well as the amount and type of development. These classifications reflect a range of river environments and a variety of land uses and development densities for that environment.

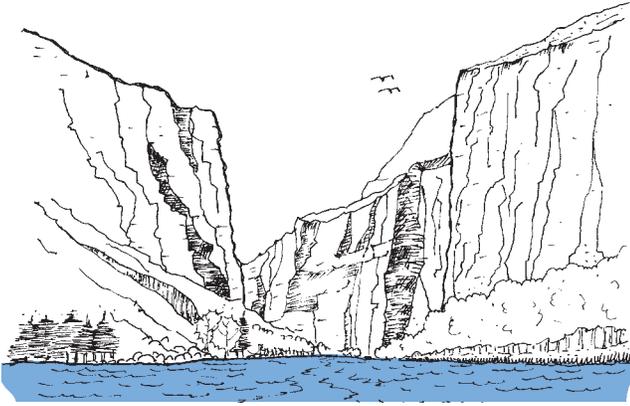
The classifications are also guidelines for OPRD and other agencies to evaluate how well new development blends into the existing landscape. What is allowed and not allowed varies from classification to classification, depending on what is compatible with the existing scene as viewed from the river. For example, uses that fit into a more densely developed residential area will not necessarily blend into an agricultural or forested setting.

The following pages illustrate examples of the classifications and their standards of development.

Within all of these classifications, development standards vary depending on existing development and the appearance of the landscape.



Natural River Area



A Natural River Area is undeveloped, and pristine or near pristine. It is accessible only by trail, boat or airplane. While the landscape of a Natural River Area can vary from steep-walled canyons to forested foothills, its character is consistent: primitive, very scenic, and conveying a sense of solitude. Evidence of human use in a Natural River Area is usually limited and any structures or indication of settlement are rare or scattered.

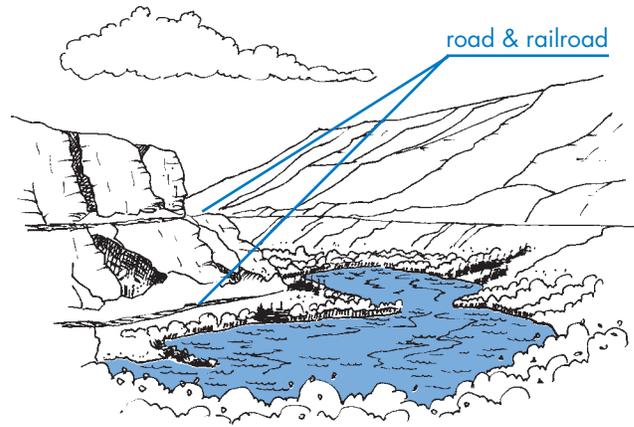
Because a Natural River Area is undeveloped, any change has great potential to affect its natural beauty. A Natural River Area is designed to preserve and protect its primitive natural condition. Stringent standards for concealing all developments from the river are applied. River recreation activities compatible with a primitive setting and with very low visual impact are allowed.

Conditions for Use

A Natural River Area's dominant feature is its natural, primitive character. To assure adequate protection within the corridor:

- All new structures and developments must be completely hidden (screened) from the river, usually by topography (landform).
- Public recreation facilities and natural resource protection measures (*e.g.*, stream bank protection) may be visible from the river only if absolutely necessary. Their appearance must blend into the natural landscape and in no way dominate the view from the river.

Accessible Natural River Area



An Accessible Natural River Area is similar to a Natural River Area in character and lack of development, but an Accessible Natural River Area can be usually reached by road. Typically, the access road is unpaved and passable only during warm, dry seasons.

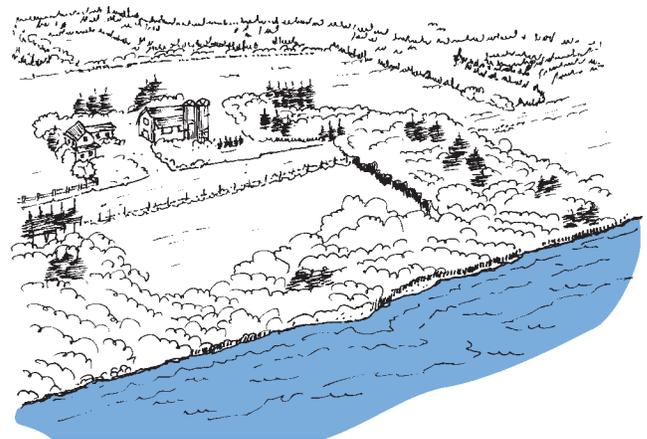
An Accessible Natural River Area is managed like a Natural River Area. The undeveloped, pristine character of the area is protected and preserved, with stringent standards for screening new development that can be seen from the river.

Conditions for Use

To protect and preserve the natural character of the view from the river:

- All new developments must be completely screened from the river, usually by topography.
- Existing roads cannot be extended or improved.
- Public recreation facilities compatible with the undeveloped, primitive condition of the landscape are allowed.

Scenic River Area



A Scenic River Area may have nearby development, but for the most part is undeveloped and natural appearing. The dominant human influences in a Scenic River Area are

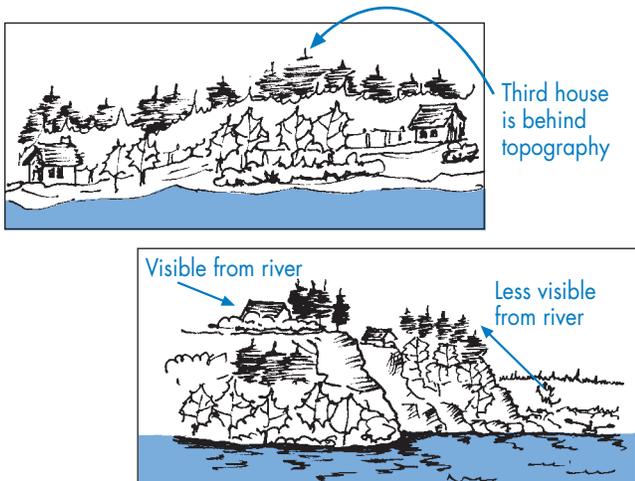
agriculture and grazing. Roads may be nearby, but are lightly traveled and not easily seen from the waterway. Power lines may be visible.

A Scenic River Area is managed to protect the scenic quality created by the combination of agricultural and natural features. Agriculture and recreation activities compatible with existing land uses are allowed.

Conditions for Use

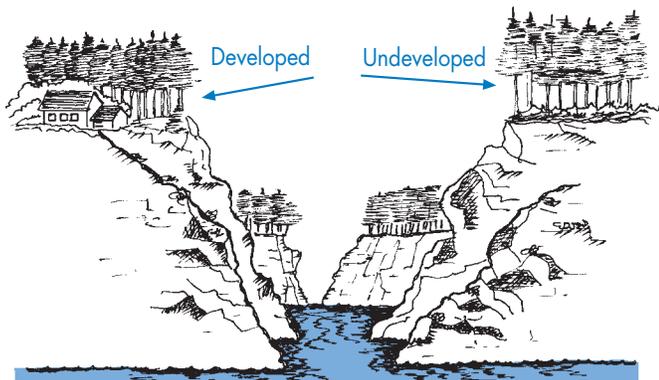
In general, certain structures and improvements can be visible from the river, but they must:

- Be related to agricultural, residential or recreation activities already visible.
- Meet the general design standards for building (height, color and materials).
- Meet local zoning requirements or density standards* established by the waterways program.



* An example of a density standard exists along the Rogue River. Only two residences per mile may be visible along each bank of its Scenic River Area. If the density standard is already met, new structures must be screened from view by topography. If only one house is visible, the new house may be seen, but must meet the uniform standards for color, wall and roof materials, and height.

Natural Scenic View Area



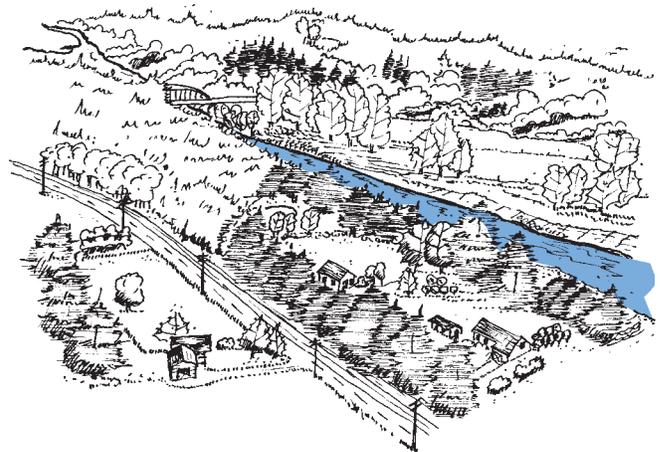
A Natural Scenic View Area contains one undeveloped and largely pristine riverbank while the opposite bank is more developed.

Conditions for Use

Standards for development within a Natural Scenic View Area are similar to those for a Natural River Area or Accessible Natural River Area:

- New development along the waterway must be completely screened from view from the river, usually by topography. Vegetative screening of new development may be allowed in a forested area.
- Existing roads within a Natural Scenic View Area usually cannot be improved or extended.
- Public recreation facilities and resource protection measures can be visible, if their appearance blends in with the natural character of the surroundings.

Recreational River Area



A Recreational River Area contains mixed agricultural, residential and commercial development along the shore and adjacent lands. A Recreational River Area is often rural or pastoral in character and easily accessible from local roads.

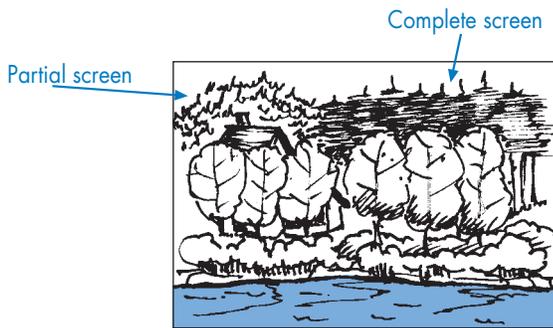
A Recreational River Area is managed to protect the view from the river, allow development consistent with existing land uses and provide for a wide range of recreational activities within the scenic waterway.

Conditions for Use

In general:

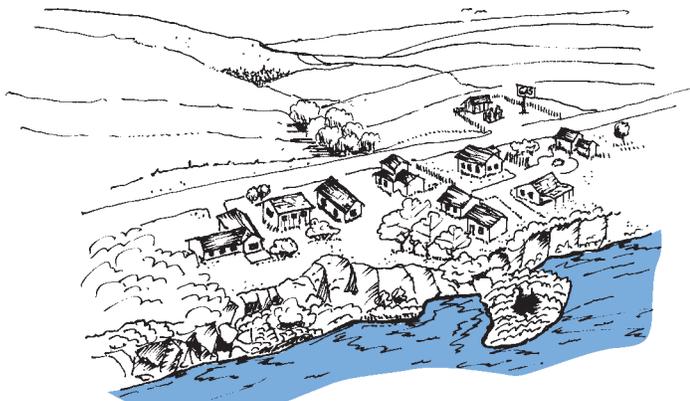
- Development is allowed if it does not interfere with the natural scene from the river. On scenic waterways where the natural landscape is dominant, such as the Deschutes River, this means that development other

than that needed for agricultural, recreational or resource protection uses is not allowed to be visible and requires complete screening. On other rivers where development is visible and dominant, development may be visible if it meets certain requirements for screening, density or use. For example, on the Rogue River, agricultural, commercial or residential structures can be visible from the river but are limited to four per mile per bank, and must meet the uniform standards for color, material and height.



Existing uses, public recreation facilities and natural resources protection projects can be seen from the river. They must blend into the natural scene as much as possible.

River Community Area



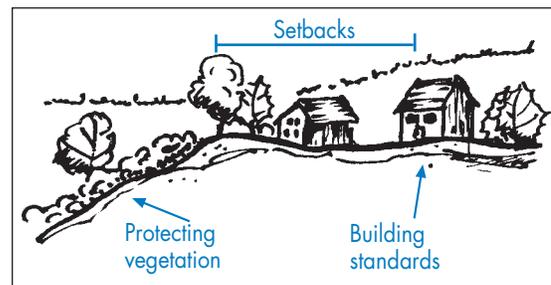
A River Community Area is a densely developed area, such as a residential tract or platted subdivision.

A River Community Area is managed to allow development compatible with local zoning, and must blend into the natural character of the surrounding landscape. This also means protecting existing riparian vegetation, and encouraging activities that protect the resources or improve the landscape.

Conditions for Use

In general:

- Development compatible with existing local zoning is allowed.
- New improvements may be visible from the river if they meet the design standards (height, color, materials). A density standard may exist for the number of structures visible from the river.
- OPRD encourages landowners to protect riverbank vegetation.



Oregon Parks and Recreation Commission

April 27, 2016

Agenda Item:	9d	Information
Topic:	Beach driving in Lincoln County	
Presented by:	John Allen and Richard Walkoski	

Background

At the September 23, 2015 Oregon Parks and Recreation Commission meeting, the department presented an informational item on beach driving in Lincoln City. In the summer of 2015 members of the public resumed using a beach access site that by administrative rule is open to vehicles. This drew attention because the site had not been used for vehicle access for some time due to site conditions. On October 13, 2015, the department received correspondence from Mary Griffing enclosing a “Petition to Disallow Vehicle Parking on the Beach at NW 35th” signed by 28 individuals. The department was able to validate at least twenty of those signatures belonged to property owners adjacent to the access and the open section of beach, so a public meeting was scheduled.

Public Meeting

On Wednesday, March 30, 2016 a public meeting was held at the Lincoln City library. The meeting was attended by twenty to thirty people, most in favor of closing the beach at the NW 35th access, but did testify against closing the beach at that location. The meeting provided the department with information on historical use, current use, and potential problems with the beach being open at that location, and some reasons why vehicle access is important. A list of comments presented at the meeting is included in attachment A.

Based on the comments from the public meeting there are some points everyone agrees with, no matter if they are for or against closing the beach at the NW 35th access:

- Beach access for emergency vehicles is necessary
- Beach access to accommodate ADA access is acceptable
- Vehicle access and crowded beaches don’t mix
- The ramp at 35th is not well maintained making access difficult or impossible at times
- Seasonally the small stream backs up and reduces the amount of beach available for parking
- Parking near the beach in Lincoln City is inadequate during the busy times of the year

Those in favor of closing the beach pointed out that the beach at 35th is heavily used by families with small children creating dangerous situations both on the narrow ramp and on the beach. They also pointed out that when the beach was opened for parking there were no parking spaces along the ramp, those were added later and provide an alternative to the beach. Several mentioned that during the summer sand drifts and backs up the small stream to form a lake near the end of the access ramp. This creates a hazard for vehicles and has the potential for environmental damage when vehicles drive through and/or park in the stream. It was also pointed out that the signs marking the north and south boundaries of the vehicles allowed zone are hard to maintain and are washed out during storms which makes it hard for people to know where they can and can't drive legally.

Those wanting to keep the beach open point out that this is one of only two small areas of beach open for vehicles in the entire county. Beach access is important for emergency crews but there are also some forms of recreation, like kite boarding or jet skiing, that require gear which is heavy and hard to get to the beach without being able to drive down onto the sand. While acknowledging that vehicles driving on beaches with pedestrians can create hazards, they feel that adequate signing at the access ramp would help mitigate the problem. They also feel that in order to support forms of recreation like kite boarding there should be several vehicle access points to unload gear then pick it up at a point downwind.

Next Steps

Based on the information gathered at the public meeting there are enough legitimate concerns to warrant the department begin a rulemaking process to close the beach to vehicles at NW 35th. In preparation for that process the department will do additional fact finding: to verify the impact of the small stream on beach parking; to determine the amount of use the beach parking area gets; and to work with Lincoln City to investigate the possibility of developing alternative parking off the beach but close to beach access points. Depending on the results of those investigations and the public comments received during rulemaking, staff will make a final recommendation to the Commission on the proposed closure. If the recommendation is to leave the beach open to vehicle parking, no additional action is necessary, but closing it will require adopting revised rules to remove the exception at NW 35th that currently allows vehicles on the beach.

Attachments: Attachment A – Public Meeting Comments

Prepared by: Richard Walkoski

Information presented by those in favor of closure:

- The area near the end of the ramp is a favorite place for kids to play as there is a stream there which sometimes backs up
- Families frequently set up near the ramp for their day at the beach and they bury people in the sand for fun, which could be bad if vehicles are driving around on the beach
- Parking in a space 300 feet long can create congestion at a busy beach access
- There is a stream that cuts across the ramp sometimes and can cause a safety hazard as well as reducing the actual space to park
- In the summer the stream actually forms a lake which reduces parking space and creates a hazard for drivers
- Parking on the beach makes it less desirable for recreation and this is a heavily used beach
- Beach conditions change daily and allowing vehicles down on the beach eventually leads to someone getting stuck, which causes other problems as they try to get unstuck
- The city has provided a limited number of parking spaces at the side of the ramp that were most likely not there when the parking was allowed on the beach
- There is parking on the beach at 15th street
- Since the beach is currently open for parking cars are observed down there but many are driving around, not parking
- Additional trash and litter, including drug paraphernalia is a result of allowing vehicles on the beach
- The markers at the North and South of the allowable driving area do not stay up through the storms so how will people know where they can and can't drive
- Even when signs are up not all people respect those signs
- If vehicles can access to park at 15th street and here the temptation will be to drive the beach between the accesses
- Night driving can cause additional safety problems as many people go sit on the beach at night to watch the sunset or look at the stars
- Beach driving disturbs wildlife
- Parking on the beach, especially in the stream, can cause environmental hazards due to fluid leaks, disturbance of the beach, etc.
- Increasing traffic on the access road, which is in poor condition, will further deteriorate the road and will be a safety concern as pedestrian traffic is high on that access
- There is a memorial plaque on a rock beside the access road that could be damaged if vehicular traffic increases
- The legal description of the area open for vehicles is not correct as it designates the wrong street as the access

Information presented by those opposed to the closure:

- Access to the beach with your vehicle is rare in Lincoln County and the ability to get down to the beach is a long standing tradition in Oregon
- This is one of only two open sections of beach in Lincoln County (note: both open areas are for parking and the beach is only open for 150 feet on each side of the access)
- Signage can help reduce safety concerns (kids, hazardous driving conditions, congestion, etc.)
- The small amount of parking spots put in beside the ramp are not adequate so the beach should remain open
- People like to access the beach to offload heavy equipment for kite boarding or to launch a jet ski and this is one of only two places they can do that without getting a drive on beach permit
- Kite boarders like to do down-winders and having two points of access allows them to offload at one and then pick up their equipment at the other
- Emergency crews use the access for water rescues, and having more options is better

Other information presented:

- Volunteer organizations would be willing to help maintain the access ramp to reduce safety concerns (this comment was made by a member of Cougar Mountain Riders Association)
- The city should be a partner in the solution and look for parking options off the beach but close enough to be useful (this comment made by a city councilor)