



**OCEAN SHORE
ALTERATION PERMIT**

Application Approved with Conditions:



Application Denied:



Date: November 22, 2013

Applicant:

Bureau of Land Management (BLM), Coos Bay District

OPRD File Number:

BA# 689-13

County:

Coos

Project Location:

Western foredune of the New River Spit between the Croft Lake and New Lake outlets.
T30S R15W Section 10, 15 and 22.
Langlois, Oregon

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 applicant seeks to renew OPRD Permit BA# 602-05, formerly issued to the Curry County Soil and Water Conservation District and adjacent landowners along the New River. The project proposes to mechanically breach one of three pre-selected locations, if necessary, along the New River Spit between the ocean outlets of New Lake and Croft Lake. The amount of material removed during mechanical breaching varies between newly selected and former breach locations. An estimated 28,000 cubic yards of material are removed during construction of a new breach, and an estimated 3,500 cubic yards are removed to reactivate a former breach site. The project is designed to improve channel complexity and water quality, improve habitat for salmonids, alleviate private pastures from flooding, and reduce economic loss.

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 4)

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 Sand Alteration.



Denies your application

Conditions:

1. 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 Tony Stein at (541) 563-8504 prior to construction for the necessary permit.
2. The project shall be constructed in accordance with the submitted plans and descriptions, and comply with the location and amount of sand transferred and placed on the ocean shore.
3. Permit is valid for a period of 5 years and is authorized through November 22, 2018 and subject to all permit conditions. Permit may be renewed at the discretion of the Director of OPRD after a review process has been performed. 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.
4. An annual meeting will be held to review the results of past breaches and determine a course of action for future breaches. OPRD, BLM, ODFW, and New River private landowners will be the primary parties involved in the review and decision process. Minor changes in the approved plan or site locations may be authorized as a result of the annual review meeting.
5. Breaching is authorized only between November 15 and February 15 and only if Knapp Lane and/or the gate located at the end of the spur road on the McKenzie Ranch is inundated by flood waters.
6. In the event that New River should breach "naturally" after the pre-breach excavation, manual breaching shall not be initiated. If at any time during the authorized breach work period (November 15-February 15) the river mouth closes and water levels reach the identified landmarks (as stipulated in condition 5), the Permittee may proceed with a manual breach.
7. If the fore-dune does not rebuild/close naturally each summer following a winter manual breach, the Permittee shall manually restore the fore-dune as required by Statewide Planning Goal 18. Mechanical closure will be in consultation with USACE, ODFW, USFWS, OPRD and private landowners.
8. The owner of the property where the mechanical breach occurs assumes full responsibility, in consultation with other parties involved with permit conditions, for ensuring that all terms and conditions of the permit are met.
9. Permittee shall notify the Cape Blanco Manager at 541-332-6774 prior to any operation of equipment through Floras Lake State Natural Area. Bullards Beach Manager shall be notified at 541-347-2209 prior to any operation of equipment through Bandon Beach State Natural Area. Permittee and equipment operators shall make every attempt possible to minimize impact on park trail and natural resources and will replace any and all boulders that impede passage.
10. Permittee shall notify OPRD Ocean Shores Coordinator at 541-563-8504 and ODFW Gold Beach at 541-247-7605 at least 24 hours prior to intent to breach.
11. All sand alteration and excavation shall be conducted above ordinary high water of New River on the east side of the fore-dune and above mean high tide west of the fore-dune.
12. This approval does not affect any obligation the Permittee might have to other persons or agencies, local, state or federal. Permittee shall be responsible for obtaining any additional required approvals from the U. S. Fish & Wildlife Service or National Marine Fisheries Service, if applicable to this project.

13. In no event shall the issuance of the permit be construed as a sale, lease, granting of easement or any form of conveyance of the state recreational area, ocean shore or submerged lands.
14. 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 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 archeological objects are encountered during the project, all work must stop immediately, and work may not proceed until an archeological permit is issued under ORS 390.235
15. If the Permittee fails to comply with the conditions provided herein and otherwise imposed by OPRD, OPRD shall exercise its authority under Oregon Revised Statutes 390.661 through 390.676; 390.990 through 390.995; and the provisions of OAR 736-020-0200 to cease any further activity by the Permittees on the ocean shore except as directed by OPRD. In such circumstances OPRD may assess a civil penalty according to the provisions of OAR 736-080-0005 through 736-080-0070.
16. The Permittee shall agree to save and hold harmless the State of Oregon, the Oregon Parks and Recreation Commission, and its members, and all officers, agents and employees of the Oregon Parks and Recreation 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(s), 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 issuing this permit, OPRD makes no representation regarding the quality or adequacy of the permitted sand alteration design, construction, or maintenance, except to approve the project's design and activities as set forth in the permit application, as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapter 390 and related regulations.

Jim Morgan, Stewardship Program Manager
Oregon Parks and Recreation Department

Cc: Jill Rolfe, Coos County Planning Department
Laren Woolley, DLCD
Anita Andazola, U.S. Army Corps of Engineers
Todd Confer, ODFW

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