



**OCEAN SHORE  
ALTERATION PERMIT**

Application Approved with Conditions:



Application Denied:



Date:

December 20, 2005

Applicant:

Curry Soil and Water Conservation District  
Private Ranch Land Owners

OPRD File Number:

BA-602-05

County:

Coos/Curry

Project Location:

T30S R15W Sec28 N1/2

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 project proposes to mechanically breach on the New River Spit to alleviate seasonal flooding. The project will be performed in two phases.

Phase I: Pre-breach work will be performed prior to fall rains and subsequent high flows. Pre-breaching will involve removal of the majority of sand from east side (landward) of the fore-dune according to channel dimensions on attached plan drawings. Sand removal during pre-breach will cease on east side of fore-dune prior to creating an actual breach in the fore-dune. This action will effectively create a "plug" that may readily be breached either naturally by a high flow event, or manually under permit conditions. The work will be accomplished using a bulldozer or similar equipment. All sand removed during pre-breach will be placed adjacent to the work site and will not be transported off site. All heavy equipment will be removed upon completion of work.

Phase II - In the event that certain required conditions below are met, the remaining "plug" from the west side of the fore-dune will be removed causing a breach which will alleviate flood damage to the applicant and neighboring properties.

*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 \_ )

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 with conditions.

Denies your application

### Conditions

1. This approval does not affect any obligation the Permittee might have to other persons or agencies, local, state or federal. regulations.
2. Work approved under this permit is authorized through February 28, 2010 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.
3. 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 decision. Minor changes in the approved plan or site locations may be authorized as a result of the annual review meeting.
4. Pre-breach work shall be conducted annually after September 15 to avoid potential disturbance to Western snowy plover during nesting season.
5. Breaching is authorized only between September 15 and February 28 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. Between September 15 and October 15 ODFW-Gold Beach, OPRD, & BLM will be notified of an early breach.
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 (September 15-February 28) 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 ODFW, USFWS, OPRD, BLM, 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 Coastal Coordinator at 541-888-9324, ODFW Gold Beach at 541-247-7605, and BLM at 541-751-4301 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. The 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. 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.
14. 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.
15. 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.
16. 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 736-080-00700.
17. 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.

**/s/ Dave Wright, for**

Tim Wood  
Director  
Oregon Parks and Recreation Department

Cc: Andy LaTomme, Area 4 OPRD Manager  
Frank Eckley, Cape Blanco Manager  
Kevin Welch, Bullards Beach Manager  
Todd Confer, ODFW Gold Beach  
Chris Church, BLM Coos Bay

**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*