



FINDINGS OF FACT STAFF REPORT

Date:	August 22, 2011	OPRDOceanShoresCoordinator:	Tony Stein		
OPRD File Number:	BA-673-11	County:	Tillamook	Applicant:	Jim Songer
Project Location:	The property is located at 45995 Verbena Court, Neskowin. Tillamook County Assessor's Map T5S, R11W, Section 24 BD, Tax Lot 1300.				
Brief Project Description:	The application seeks to convert the temporary Emergency Permit BA# 672-11 issued January 20, 2011, into a permanent shoreline protection structure. The proposed project involves the construction of a riprap revetment, approximately 104 feet in length and 20 feet in height above the beach level. The revetment will be constructed at a slope of 2H to 1V, using riprap rock 5 to 6 foot in diameter, with smaller pit run rock and Mirafi 700x fabric material underneath as structure backing. The proposed riprap revetment will project approximately 37 feet onto the ocean shore, and tie into an existing riprap revetment to the north (BA# 649-08).				

ADMINISTRATIVE RULE STANDARDS AND RELEVANT FACTS

I. GENERAL STANDARDS, OAR 736-020-0010

Project Need – There shall be adequate justification for a project to occur on and alter the ocean shore area.

In recent years, particularly during the 1998/1999 winter, many areas of Neskowin have experienced critical erosion. Active sand dunes have receded, and beach sand levels have been dramatically lowered. In the submitted geologic report by Richard Larrett "Preliminary Site Evaluation for James Songer", dated February 14, 2011, it states that "In the spring of 2008, severe erosion to the shore on the adjacent lots to the north had the potential to expose and damage the septic drain field on TL 1400. A riprap shoreline protection system (BA 649-08) was constructed to minimize erosion and protect the drain field from damage. Severe erosion by high waves from the fall of 2009 to the present has displaced some of the riprap boulders on the south portion of the shoreline protection system on TL 1400. During the period from October, 2010 to January 2011, severe erosion by high ocean waves occurred to the toe of the bluff on the west portion of TL 1300. Approximately 50 feet of erosion has occurred to the toe area of the beach slope for several hundred feet to the south of TL 1300".

The stability of the southern flank of the existing riprap structure (BA# 649-08) and the foredune bank fronting the Songer property was compromised and there was an immediate threat to upland structures. Significant erosion had occurred to the dune face along the west side of TL 1300 requiring the issuance of an Emergency Permit on January 20, 2011. At that time, the Songer residence was located approximately 39 feet from the edge of the top of the 15 foot high bluff.

Based on the above considerations, OPRD finds that there is adequate justification for the project to occur on and alter the ocean shore area.

Protection of Public Rights – Public ownership of or use easement rights on the ocean shore shall be adequately protected.

The proposed riprap fronting the Songer property will extend 37 feet out from the existing dune escarpment, occupying up to 3,848 square feet of beach area at the toe of the slope. The riprap will be tapered at the south end of the proposed revetment structure and into the dune face to reduce the occupation of beach area.

Normally the beach at this site is quite wide, so public recreational uses should not be affected under normal conditions. The presence of the riprap will not affect public ownership or easement rights on the ocean shore.

Public Laws – The applicant shall comply with federal, state, and local laws and regulations affecting the project.

The Tillamook County Department of Community Development has certified that the project is in compliance with the Tillamook County Comprehensive Plan and Land Use Code. State of Oregon regulations are being addressed under the review of this permit. Federal regulations could potentially involve a U.S. Army Corps of Engineers permit. However, a Corps permit is usually not required for this type of project. A condition of the permit will require that the applicants obtain any required permits from the Corps, if applicable.

Alterations and Project Modifications – There are no reasonable alternatives to the proposed activity or project modifications that would better protect the public rights, reduce or eliminate the detrimental affects on the ocean shore, or avoid long-term cost to the public.

The submitted geologic report states that wave action and high surf at this particular site is too active to stop dune toe erosion. The report also states that a vegetated root system would not be dense enough to withstand wave energy. Dynamic revetments, sand bags, gravel mounds, logs or composite revetments would also not be feasible due to the active surf zone. Other geologic reports on similar properties have concluded that these techniques would not be effective due to the high-energy wave environment along this section of the coastline coupled with the loose nature of the sand. Vegetative stabilization and sand alteration would not be sufficient to substantially slow or halt erosion.

Relocating the Songer residence would not provide the necessary protection to the structure and would not avoid the need for placing riprap or other material on the ocean shore. The building is currently occupying much of the usable land with an adjacent septic field located just east of the home.

Public Costs – There are no reasonable special measures which might reduce or eliminate significant public costs. Prior to submission of the application, the applicant shall consider alternatives such as nonstructural solutions, provision for ultimate removal responsibility for structures when no longer needed, reclamation of excavation pits, mitigation of project damages to public interests, or a time limit on project life to allow for changes in public interest.

Public costs associated with the proposed riprap will be the loss of approximately 3,848 square feet of upper beach area. Alternative shore protection methods other than riprap have been discussed above. These alternatives are not considered reasonable special measures, as they would fail to provide the needed long-term protection for the property. Public costs of the riprap also include the loss of recreational beach area, heavy equipment activity on the beach during construction, and the visual presence of additional riprap. These costs can be reduced through careful and efficient construction practices.

There will be no public costs to maintain the rip rap structure, as maintenance and needed repairs are the responsibility of the upland property owners.

Compliance with LCDC Goals – The proposed project shall be evaluated against the applicable criteria included within Statewide Planning Goals administered by the Department of Land Conservation and Development.

Statewide Planning Goal 18 requires that permits for beachfront protective structures be issued only where development existed on January 1, 1977. Development is defined as houses, commercial and industrial buildings, and vacant subdivision lots which are physically improved through construction of streets and provision of utilities to the lots. The subject property meets the criteria. The Tillamook County Comprehensive Plan includes a Goal 18 exception for the Neskowin Community, recognizing that the lots were developed prior to 1977.

II. SCENIC STANDARDS, OAR 736-020-0015

Natural Features – The project shall retain the scenic attraction of key natural features, for example, beaches, headlands cliffs, sea stacks, streams, tide pools, bedrock formations, fossil beds and ancient forest remains.

The natural features of the beach in the general vicinity will remain intact, and no significant landforms such as headlands, sea stacks, or streams will be affected. The riprap project will result in changes to the dune bluff profile and will occupy some beach area. However, the scenic attraction of the beach will not be significantly affected, considering the width of the ocean shore and existing riprap structures along this section of Neskowin beach.

Shoreline Vegetation – The project shall retain or restore existing vegetation on the ocean shore when vital to scenic values.

The project will not affect vegetation that is vital to scenic values. Very little vegetation remains on the dune face due to the dramatic erosion that has occurred during the past several winters.

View Obstruction – The project shall avoid or minimize obstruction of existing views of the ocean and beaches from adjacent properties.

The riprap revetment will not affect or obstruct ocean or beach viewing opportunities from adjacent properties.

Compatibility with Surroundings – The project shall blend in with the existing shoreline scenery (type of construction, color, etc.).

The riprap revetment will be visually consistent with other riprap revetment projects on adjoining properties, and the many similar structures in the south Neskowin community.

III. RECREATION USE STANDARDS, OAR 736-020-0020

Recreation Use – The project shall not be a detriment to public recreation use opportunities within the ocean shore area except in those cases where it is determined necessary to protect sensitive biological resources such as state or federally listed species.

The proposed riprap will occupy some of the available beach area, and should not affect typical recreation uses such as sunbathing, kite flying, sandcastle building, walking, or beachcombing.

Recreation Access –The project shall avoid blocking off or obstructing public access routes within the ocean shore area except in those cases where it is determined necessary to protect sensitive biological resources such as state or federally listed species.

During high tides in the winter, wave run-up often reaches the upper areas of the beach, and may cover the entire beach at times. Riprap revetments encroach some distance out from the natural bluff toe, and increase the chance of high water covering the entire beach area. The project is designed to project as little as possible out onto the beach area, while still maintaining a stable slope that will not collapse or become a safety hazard. Access during times of extreme high water is already limited by the presence of riprap on adjoining properties; therefore, the proposed project will not result in any new obstruction to lateral beach access. Permit conditions will also require that the line of riprap be tapered inland at the flanked ends, which will help preserve additional beach area for public use.

IV. SAFETY STANDARDS, OAR 736-020-0030

Structural Safety – The project shall not be a safety hazard to the public due to inadequate structural foundations, lack of bank stability, or the use of weak materials subject to rapid ocean damage.

The revetment has been designed by an engineering geologist to withstand wave attack, and support the steep dune face. Rock size, slope, toe trench, and material specifications appear to be adequate for providing erosion control in this high-energy beach environment

Obstructional Hazards – the project shall minimize obstructions to pedestrians or vehicles going onto or along the ocean shore area.

The riprap will project out approximately 37 feet from the toe of the existing dune escarpment. This normally will not affect lateral beach access, except during times of extreme high water. During these periods, however, wave run-up is likely to be hitting the riprap on neighboring properties. Therefore, the proposed riprap will not create a new obstruction for beach access along the shoreline.

Neighboring Properties – The project shall be designed to avoid or minimize ocean erosion or safety problems for neighboring properties.

In the past, neighboring properties to the north have experienced dune erosion and formation of a steep dune scarp fronting the properties. A previous riprap permit was issued to protect those properties in 2008 (BA# 649-08). The proposed riprap will tie into the flanked end of the existing riprap revetment on adjacent property and protect those structures from undermining and unraveling, thus creating a continuous shoreline protective structure. The adjacent property to the south owned by Tillamook County (TL 1900, vacant lot) is unprotected and was undeveloped as of January 1st, 1977.

Property Protection – Beachfront property protection projects shall be designed to accomplish a reasonable degree of increased safety for the on-shore property to be protected.

The purpose of the revetment is to provide protection to the upland properties.

V. NATURAL AND CULTURAL RESOURCE STANDARDS, OAR 736-020-0030

Fish and wildlife resources including rare, threatened or endangered species and fish and wildlife habitats.

There are no reported fish and wildlife resources that will be impacted by the proposed riprap revetment. The site is within a developed residential area, and there is no protected fish and wildlife habitat on or adjacent to the subject properties.

Estuarine values and navigation interests.

The project is not adjacent to an estuary, and does not affect navigable water on the ocean.

Historic, cultural and archeological sites.

Notice of the application was provided to the State Historic Preservation Office, and to the Confederated Tribes of Siletz Indians. There were no reports of historic, cultural, or archeological sites at this location.

Natural areas (vegetation or aquatic features).

There is no existing significant vegetation or aquatic features that will be impacted by the proposed riprap.

Air and water quality of the ocean shore area.

The project would take place above the ordinary high tide line, and would not cause foreign materials or pollutants to enter the water. Riprap placed at the site will be free of debris or foreign materials. The proposed project will not adversely affect water quality on the ocean shore. Air quality will not be affected, except for a negligible amount of exhaust from the use of heavy equipment during the construction period.

Areas of geologic interest, fossil beds, ancient forest remnants.

None of these features have been identified at the site.

When necessary to protect native plant communities or fish and wildlife habitat on the subject or adjacent properties, only native, non-invasive, plant species shall be used for revegetation.

No revegetation is proposed for the project.

VI. PUBLIC COMMENT

Notice of the proposed project was posted at the site for 30 days in accordance with ORS 390.650. Individual notification and a copy of the application were mailed to government agencies and individuals on OPRD's ocean shore mailing list. During the public comment period, OPRD received no requests for a public hearing and no letters were received in support or opposition to the proposed project.

VII. FINDINGS SUMMARY

There is a critical need for the proposed project. Consistent stormactivity over the past couple of winters has caused significant lowering of the beach profile and foredune scouring at this location. The Songer residence is located in close proximity to the edge of the dune scarp, and the adjacent riprap revetment is being significantly damaged by wave action.

Relocation of structures is not a viable option due to the limited room available on the upland property. Non-structural alternatives to riprap are not feasible due to the high-energy wave environment along this section of the coastline coupled with the severity of erosion at this site.

The project will be consistent with the existing riprap shoreline protection on adjacent properties, and will not create any new obstruction to beach access or recreational uses.

The following checklist summarizes whether the application satisfies the general, scenic, recreation, safety and natural and cultural resource standards as defined in OAR 736-020-0010 through 736-020-0030:

Standard	Yes	No	Standard	Yes	No
Project Need	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Structural Safety	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Protection of Public Rights	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Obstructional Hazards	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Public Laws	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Neighboring Properties	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alteration and Project Modifications	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Property Protection	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Public Costs	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Fish and Wildlife Resources	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Compliance with LCDC Goals	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Estuarine Values and Navigation Interests	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Natural Features	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Historic, Cultural and Archeological Sites	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Shoreline Vegetation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Natural Areas	<input checked="" type="checkbox"/>	<input type="checkbox"/>
View Obstruction	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Air and Water Quality of the ocean shore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Compatibility with Surroundings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Areas of Geologic Interest	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Recreation Use	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Use of Native Plant Species when Necessary	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Recreation Access	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>	<input type="checkbox"/>

VIII. STAFF RECOMMENDATION:

Based on an analysis of the facts and in consideration of the standards evaluated under OAR-736-020-0005 through OAR 736-020-0030, I recommend the following action:

- Approval
- Approval with conditions
- Denial

Tony Stein
OceanShores Coordinator