OCEAN SHORE
ALTERATION PERMIT

Application Approved with Conditions:	☒	Application Denied:	☐

Date:	July 2, 2004	Applicant:	Don Schaefer and Edward Ferschweiler

OPRD File Number:	BA-587-04	County:	Lincoln

Project Location:	5441 and 5507 NW Jetty Avenue, Otis. Lincoln County Assessor's Map #6S-11W-34DD, tax lot 501 and 502

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 proposed project involves the construction of a riprap revetment, approximately 132 feet in length, and approximately 14 feet in height above beach level, with a slope of 2H to 1 V. The proposed riprap revetment will project approximately 20 feet onto the ocean shore, tapering inwards towards the bluff at the north and south ends.

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 a riprap revetment.

☐ Denies your application

Conditions:

1. Prior to construction, the Permittees or subsequent owners (collectively, "Permittees") shall file with the Lincoln County Clerk, a Declaration of Conditions and Restrictions. A form is attached for use in satisfying this condition. The permittees shall pay any filing and recording costs. Upon recording, 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 prior to construction shall nullify this permit and all authorizations contained herein.

2. Prior to construction, the Permittees shall deliver to OPRD, a cash bond, or other security acceptable to OPRD, in the amount of $6,600.00, to ensure that all required conditions of the permit are met. If the permit conditions are not complied with by the permit expiration date (July 2, 2005) OPRD may undertake action to complete the work without further notice to the Permittee and may deduct any and all costs and expenses of accomplishing such work. Use of the cash bond or other security for such purposes does not preclude OPRD from pursuing any other legal remedies or enforcement action at its disposal to ensure that permit conditions are satisfied.

3. 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 Steve Williams at (541) 867-3340 prior to construction for the necessary permit.

4. The project shall be constructed in accordance with the submitted plans and descriptions provided in the permit application, and comply with the location, dimensions of the riprap revetment, and materials specified in the plans and descriptions. Only clean, erosion resistant rock from an upland source shall be used as riprap.

5. The project shall be completed prior to July 2, 2005. If it appears that, due to unforeseen circumstances, the project cannot be installed by the expiration date, the Permittees or authorized representative(s), may request a permit extension. A time extension may be granted based on the submission of a revised construction schedule.

6. Upon completion of the project, the beach shall be cleared of all rock debris, or other debris associated with the riprap construction, and the beach shall be returned to its pre-existing condition.

7. The Permittees shall be responsible for obtaining any required permit approvals from the U.S. Army Corps of Engineers, if applicable to this project.

8. The Permittees shall be responsible for maintaining the revetment. This includes retrieving and replacing rocks or other materials moved or damaged because of the ocean or any other cause. Failure to maintain the revetment, where such failure causes a public safety hazard or detriment to ocean shore resources, may cause appropriate legal action to be pursued to ensure compliance with this provision.

9. 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.

10. The Permittees 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

11. This approval does not affect any obligation the Permittees might have to other persons or agencies, local, state or federal.

12. If the Permittees fail 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 Permittee 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.

13. The Permittees shall agree to save and hold harmless the State of Oregon, the Oregon Parks and Recreation Comission, 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.

14. In issuing this permit, OPRD makes no representation regarding the quality or adequacy of the permitted revetment design, materials, construction, or maintenance, except to approve the project's design and materials, 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.

/S/ Michael Carrier

Michael Carrier
Director
Oregon Parks and Recreation Department

Cc: Matt Spangler, Lincoln County
Paul Klarin, DLCD
Mark Everett, U.S. Army Corps of Engineers
OPRD/Area 1 Office

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