



Draft Agenda

Tuesday, April 12, 2022

TOUR:

8:00am Depart from Oregon Garden Resort

- Silver Falls State Park
 - North Gateway Visitor Center
 - North Canyon Day Use area
 - North Rim Trail
 - South water reservoir replacement

Time: 12:30pm – 1:00 Lunch

WORK-SESSION / TRAINING: 1:00pm – 3:30pm

Location: Silver Falls State Park – Smith Creek Meeting Hall

- 2023-25 Budget Development
- Electric Vehicle Charging Station Pilot Project
- Oregon Coast Trail System

Wednesday, April 13, 2022

Executive Session: 8:30am – Oregon Garden Resort – Orchid Ballroom

The Commission will meet in Executive Session to discuss acquisition priorities and opportunities, and potential litigation. The Executive Session will be held pursuant to ORS 192.660(2)(e) and (h), and is closed to the public.

Business Meeting: 9:45am

1. Commission Business

- a) Welcome and Introductions (Information)
- b) Approval of February 24, 2022 Minutes (**Action**)
- c) Approval of April 13, 2022 Agenda (**Action**)

2. Public Comment: Please submit written public comments no later than 5 p.m. April 11th to chris.havel@oregon.gov

3. Director's Update

- a) Agency Update/COVID-19 (Information)
- b) 2023 Legislative Concepts (**Action**)

4. Budget

- a) 2021-23 Budget Update (Information)

- b) 2023-25 Budget Update (Information)
- c) 2023-25 Key Performance Measures (**Action**)

5. Property

- a) ODOT I-84 Culvert Project (**Action**)
- b) Donation (**Action**)

6. Community Engagement

- a) LWCF Grant Approval (**Action**)
- b) ATV Grant Approval (**Action**)
- c) ATV Committee Member Appointment (**Action**)

7. Heritage

- a) Heritage Division Updates (Information)

8. Park Development Division

- a)

9. Rulemaking

- a) Request to open Rulemaking, Archaeological Permits, Division 51 (**Action**)
- b) Request to adopt Rulemaking, National Register Statement Requirements, OAR 736-050-0250 (**Action**)
- c) Update on Rulemaking, take-off and landing of drones, OAR 736-010-0015, 736-010-0040, 736-021-0030, 736-021-0100, 736-021-0130 (Information)
- d) Request to open Rulemaking, making changes to Committee Procedures for Review and Approval of Nominations to the National Register Permanent, OAR 736-050-0260 (**Action**)
- e) Upcoming Rulemaking, Scenic Bikeways, OAR 736-009-025, 0030 (Information)

10. Reports (Information)

- a) Actions Taken Under Delegated Authority
 - i) Contracts and Procurement
 - ii) Ocean Shores and Scenic Waterway Permits
 - iii) Timber Harvest Revenue

11. Commission Planning Calendar (Information)

The services, programs and activities of the Oregon Parks and Recreation Department are covered by the Americans with Disabilities Act (ADA). If you need special accommodations to participate in this meeting, please contact the commission assistant Denise Warburton at (503) 779-9729 or Denise.warburton@oregon.gov at least 72 hours prior to the start of the meeting.



Oregon Parks and Recreation Commission

February 23 & 24, 2022
Zoom Meeting

Approved Minutes

Wednesday, February 23, 2022

Zoom Meeting

WORK-SESSION / TRAINING: 1:00pm - 3:30pm

Zoom Meeting

Thursday, February 24, 2022

Zoom Meeting

Executive Session: 8:30am

The commission met in executive session to discuss real property transactions, consult with counsel regarding legal matters, and review the performance of the director as authorized by ORS 192.660(2)(e), (h), and (i), respectively. The meeting was closed to the public and commissioners did not take any action or make any final decision during the executive session. After the executive session, the commission moved to its public meeting.

Business Meeting: 9:30am

• Jennifer Allen, Commission Chair	• Chrissy Curran, OPRD
• Lisa Dawson, Commission	• Tanya Crane, OPRD
• Jonathan Blasher, Commission	• JR Collier, OPRD
• Doug Deur, Commission	• Dennis Comfort, OPRD
• Vicki Berger, Commission	• Ross Kihns, OPRD
• Steve Grasty, Commission	• Daniel Killam, OPRD
• Liz Hill, Commission	• Matt Rippee, OPRD
• Lisa Sumption, OPRD Director	• Matt Rippee, OPRD
• Steve Shipsey, Counsel for Commission, DOJ	• Katie Gauthier, OPRD
• Denise Warburton, OPRD	
• Chris Havel, OPRD	

1. Commission Business

- a) Welcome and Introductions (Information)
- b) Approval of November 2021 Minutes (**Action**)

ACTION: Commissioner Dawson moved to approve the November 2021 minutes Commissioner Deur seconded. Motion passed, 5-0. Commissioner Berger and Blasher were not present. (Topic starts at 00:01:41 and ends at 00:02:12)

c) Approval of February 2022 Agenda (**Action**)

ACTION: Commissioner Hill moved to approve the April 2021 Agenda. Commissioner Grasty seconded. Motion passed, 5-0. Commissioner Berger and Blasher were not present. (Topic starts at 00:02:21 and ends at 00:03:40)

2. **Public Comment:** Please submit written public comments no later than 5 p.m. February 21st to chris.havel@oregon.gov

3. **Director's Update**

- a) Agency Update/Covid-19 (Information)
- b) Legislative Update 2022 Session (Information)
- c) 2023 Agency Legislative Concepts (Information)
- d) Director Re-appointment to 4-year term (**Action**)

ACTION: Commissioner Dawson moved to approve the re-appointment of Director Lisa Sumption to a 4-year term. Commissioner Deur seconded. Motion passed, 6-0. Commissioner Berger joined the meeting. (Topic starts at 00:23:00) and ends at 00:)

e) Best Practices Report (**Action**)

ACTION: Commissioner Grasty moved to approve Commission Best Practices Report. Commissioner Berger seconded. Motion passed, 6-0. (Topic starts at 00: and ends at 00:30:50)

f) Audit Committee (**Action**)

ACTION: Commissioner Deur moved to approve appointing Liz Hill to the Audit Committee. Commissioner Grasty seconded. Motion passed, 6-0. (Topic starts at 00:30:51 and ends at 00:37:35)

g) Electrical Vehicle Charging Update (Information)

4. **Budget**

- a) 2021-23 Budget Update (Information)
- b) 2023-25 Budget Update (Information)

5. **Property**

- a) ODOT/I-84 Needs (Information)
- b) Frenchglen Hotel SHS area Acquisition from Concessionaire (Information)
- c) Ruthton Park Reverting from Hood River County (Information)
- d) Driftwood Update (Information)

6. **Community Engagement**

- a) County Opportunity Grant Program – 2022 Grant Awards (**Action**)

ACTION: Commissioner Berger moved to approve the 2022 County Opportunity Grant Program awards recommendation. Commissioner Dawson seconded. Motion passed, 6-0. (Topic starts at 02:04:45 and ends at 02:07:08)

7. **Heritage**

- a) Heritage Division Updates (Information)
- b) Community Opportunity Grant – Veterans War Memorial 2022 (**Action**)

ACTION: Commissioner Hill moved to approve the Community Opportunity Grant – Veterans War Memorial. Commissioner Deur seconded. Motion passed, 6-0. (Topic starts at 02:11:05 and ends at 02:13:00)

8. Park Development Division

a) Silver Falls Dump Station Project (Action)

ACTION: Commissioner Grasty moved to approve the Silver Falls Dump Station Project. Commissioner Berger seconded. Motion passed, 6-0. (Topic starts at 02:13:11 and ends at 02:17:17)

b) Collier Paving Project (Action)

ACTION: Commissioner Berger moved to approve the Collier Paving Project. Commissioner Grasty seconded. Motion passed, 6-0. (Topic starts at 02:17:20 and ends at 02:20:40)

9. Rulemaking

a) Request to Open Rulemaking National Register Statement Requirements, OAR 736-050-0250 (Action)

ACTION: Commissioner Grasty moved to open rulemaking for National Register Statement Requirements. Commissioner Deur seconded. Motion passed, 6-0. (Topic starts at 02:20:49 and ends at 02:27:20)

b) Request to Adopt Park Resources Updates to Hunting, OAR 736-010-0055 (Action)

ACTION: Commissioner Dawson moved to adopt Park Resources Updates to Hunting. Commissioner Berger seconded. Motion passed, 6-0. (Topic starts at 02:27:40 and ends at 02:38:29)

c) Upcoming Rulemaking Update (Information)

10. Reports (Information)

- a) Actions Taken Under Delegated Authority**
 - i) Contracts and Procurement**
 - ii) Ocean Shores and Scenic Waterway Permits**
 - iii) Timber Harvest Revenue**

11. Commission Planning Calendar (Information)

Meeting adjourned @ 12:35pm

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Oregon Parks and Recreation Commission

April 12 & 13, 2022
The Oregon Garden
895 W Main St
Silverton, OR 97381
503-874-2500

Draft Agenda

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Oregon Parks and Recreation Commission

April 14, 2022

Agenda Item:	3b	Action
Public Comment Allowed:	Yes	
Topic:	2023 Legislative Concept	
Presented by:	Katie Gauthier, Government Relations and Policy Manager	

Development of OPRD's 2023 Legislative Concepts began with a request to all staff in Fall 2021 to solicit ideas for changes to statutes to improve agency outcomes for visitors or those we serve. Staff-submitted ideas were discussed by the Director's Group along with other ideas to further OPRD's strategic priorities.

This process resulted in four concepts recommended to move forward as OPRD's proactive legislation for the 2023 session. The four concepts below were first presented as an information item at the February 2022 Commission meeting.

With Commission approval, staff will submit concepts to the Department of Administrative Services for review and approval prior to drafting of the concept. Approval from the Governor's office is required before draft concepts may be introduced for the 2023 legislative session.

ATV Safety Education Cards

ATV Safety Education Cards are currently required for most ATV riders on public lands at no cost through an online education program. In 2019 and 2021, OPRD requested bills to expand this requirement to drivers of additional ATV classes. In 2019, the proposal included class II operators. Legislators expressed concern that this requirement could cause confusion for individuals in vehicles that are legal to drive on roads, but drive off-road. Class II includes jeeps and trucks that are registered to drive on roads. However, it also includes sand-rails and any larger side-by-side or utility vehicle that doesn't fit in the definition of a class IV vehicle.

In 2021, the agency narrowed the concept to focus on the highest risk category and only requested Class IV drivers be added to the Safety Education Card requirement. Side-by-sides are a fast-growing class of ATVs, often attracting new and less experienced riders. As a result, side-by-side accidents involving injuries have been increasing year-over-year.

In the last two years, side-by-sides have continued to be the fastest growing class of ATV, however, changes in technology make some a class II vehicle. OPRD's ATV Advisory Committee recommends pursuing legislation that would expand safety education card requirements for all class

IV drivers and drivers of class II vehicles that are not registered under ORS 803.420 or considered “street legal.” This would ensure larger side-by-side and sand rail drivers have education on the safety concerns for this type of vehicle.

ATV Class IV Sizes and Windshields

This would be the same as SB 107 from 2021. In 2019, the definition of ATV side-by-sides was changed to allow for wider, heavier vehicles, but it did not accommodate all vehicles in the class due to tire size restrictions. This bill would move the definition for a Class IV ATV to an industry standard of vehicles with engine sizes of up to 1000 cc. There are a few new side-by-side vehicles with larger engines that would continue to be part of class II.

This concept would also eliminate current windshield wiper requirement for ATVs. Many side-by-sides have half windshields or plexiglass windshields and do not come equipped with windshield wipers. The proposed change would simply require windshields to remain free from obstruction. During discussions with legislators after the 2021 session, staff were encouraged to reintroduce both ATV concepts in a future session. This concept is also supported by the ATV Advisory Committee.

Assault of OPRD Employees

Under statute, specific OPRD employees are trained as enforcement rangers who as part of their official duties enforce park administrative rules and may issue citations, orders to leave, and exclusions from parks. Unfortunately, there have been recent instances where in the performance of their duties, park staff have been subject to harassment and assault. HB 2124, from 2021 would have added OPRD enforcement rangers acting within the scope of their official duties to list of public officials for third degree assault. Continued conversations with stakeholders and legislators will refine this concept with the goal of providing resources to improve OPRD staff safety.

Governance structure

This legislative concept would begin the transition of OPRD away from strategically-selected state statutes and rules required of all state agencies that do not meet the long-term business needs of the agency mission. While still a placeholder concept, the goal of the final concept will be to seek legislative approval for removing requirements in statute that restrict the agency from pursuing our vision to take the long view to protect Oregon's special places and provide the greatest experience while creating stable future funding.

Below is the beginning of our analysis of agency programs to find exceptions in statute or efficiencies in operations while continuing to serve the public and provide opportunities for our employees. Some programs or portions of a program may be better served by another agency or partner.

- Consider options for changes to statute to exempt entire agency in the following areas:
 - Human Resources (hiring, firing, PERS, benefits, collective bargaining)
 - Stay PERS participating, but “employee-owned” when hiring/firing, classifying/compensating.
 - DOJ consultation
 - Consider State Fair example to find a method to retain option to both hire our own and tap DOJ for special issues.

- Procurement/contracting
- Budget and Accounting
 - Review Treasury rules, especially for managing transactions.
 - Consider options for flexibility for agency (except for constitutional funds).
- Information Technology
 - Consider options for flexibility for the agency.
- SHPO and Heritage programs
 - Consider changes in statutes that could improve efficiency in operations such as conference planning, grant deadlines and nominations. Continuing to be a part of OPRD provides efficiencies in administrative operations, political support and grant funding. Federal requirements would not change based on structure.
- Scenic waterways and ocean shores
 - Review regulatory role and change or broaden language to collaborate with, or transfer some responsibilities to, other agencies.
- Recreation grants
 - Consider potential efficiencies including combining heritage and community grants or transferring some grant programs out to or in from another entity.
- Statewide Trails
 - Staff recommend deferring a discussion on this topic to a later date. It will not be part of the initial concept.
- State Natural Areas Register
 - Consider if another agency could be a more appropriate manager of this program.
- ATV program
 - Continue our role in the program, with the caveat that the agency continues to not manage ATV riding areas. It is possible efficiencies could be gained with the addition of the snowmobile program management.

This placeholder concept will be refined by an agency staff workgroup based on a review of research on rules, statutes and policies over the next few months. The concept will begin transitioning the agency to a governance model that provides flexibility to strategically respond to operational needs while continuing to provide exceptional public service and opportunities for employees.

Next Steps:

If approved, staff will submit legislative concept descriptions to DAS in April. Staff will then work with stakeholders, DAS, Legislative Counsel and the Governor’s office to further develop, refine and draft concepts.

Prior Action by Commission: The Commission reviewed proposed legislative concepts as an information item in February 2022.

Action Requested: Approval to move forward with development of the four legislative concepts described above for possible introduction in the 2023 legislative session.

Attachments: none

Prepared by: Katie Gauthier

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This placeholder concept will be refined by an agency staff workgroup based on a review of research on rules, statutes and policies over the next few months. The concept will begin transitioning the agency to a governance model that provides flexibility to strategically respond to operational needs while continuing to provide exceptional public service and opportunities for employees.

Commission Membership

As a result of the last census Oregon gained a sixth congressional district. ORS 390.114 specifies the State Parks and Recreation Commission will consist of seven members appointed by the Governor. It also specifies the commission will consist of one member will be from each congressional district, one from west of the Coast range and one east of the Cascades.

In order to resolve this inconsistency, staff recommend removing language specifying commissioners for each congressional district. Instead the requirement in statute would be for the Governor to appoint members taking into consideration geography, outdoor recreation and heritage interests, racial, ethnic, and gender diversity. The Commission would remain seven members.

Oregon Fish and Wildlife Commission has a similar statute with a seven-member commission and is also considering moving away from appointing members based on congressional districts.

Next Steps:

If approved, staff will submit legislative concept descriptions to DAS in April. Staff will then work with stakeholders, DAS, Legislative Counsel and the Governor's office to further develop, refine and draft concepts.

Prior Action by Commission: The Commission reviewed proposed legislative concepts as an information item in February 2022.

Action Requested: Approval to move forward with development of the four legislative concepts described above for possible introduction in the 2023 legislative session.

Attachments: none

Prepared by: Katie Gauthier

Oregon Parks and Recreation Commission

April 13, 2022

Agenda Item: 4a Information
Public Comment Allowed: Yes
Topic: 2021-23 Budget Update
Presented by: Tanya Crane, Budget Manager

The February 2022 Legislative session came to an end on March 4, 2022. There was one bill that impacted OPRD's budget: HB5202 allocated funding to state agencies for negotiated changes in salaries and benefits for the 2021-23 biennium. OPRD was granted \$4,474,298 in additional limitation (\$2,253,545 LF, \$2,157,624 OF, \$51,835 FF and \$11,294 GF). Funding for this increase is available in the ending balance.

In addition, OPRD received \$250,000 in American Rescue Plan Act (ARPA) Other Funds limitation for work on a trail segment between Marshall Park and Tryon Creek State Natural Area; these initial funds are intended for planning and permitting of the trail segment. Partners in the project are expected to be Portland Parks and Metro.

As of the time this brief is being written, the schedule for the Legislative Emergency Board has not yet been set for the time between the short and long legislative sessions. Budget Directors were told to expect a typical Emergency Board schedule May 2022, September 2022 and December 2022.

Prior Action by Commission: The 2021-23 Agency Request Budget was approved at the June 2020 meeting. A brief update was provided in November 2020, the Governor's Budget was presented at the February 2021 meeting and a brief update was verbally presented at the June 2021 meeting. The Legislatively Adopted budget was presented at the September 2021 meeting. A budget update was provided in February 2022.

Action Requested: None.

Attachments: None.

Prepared by: Tanya Crane, Budget Manager

Oregon Parks and Recreation Commission

April 13, 2022

Agenda Item: 4b Information

Public Comment Allowed: Yes

Topic: 2023-25 Budget Update

Presented by: Tanya Crane, Budget Manager

Development of the 2023-25 biennium budget is underway. This multi-step process takes several months and will result in an Agency Request Budget.

Already completed steps:

1. Budget kick off meeting held by DAS for Agency Directors and Budget Directors (scheduled for March 16th).
2. Adjust the current biennium budget for actions taken during the February 2022 Legislative session (salary package distribution, Tryon Creek trail segment). This becomes the starting point for the new budget.
3. Review budget structure for changes: No structure changes proposed.
4. Initial revenue forecast and narrative describing forecasting methodologies sent to DAS Budget and Management (BAM).
5. Preliminary exception requests sent to BAM (Seasonal steps, uniform rent, fuels and utilities, fleet, state government service charges, attorney general).

Steps currently in process:

1. Review and finalize revenue projections
2. Review and finalize estimated beginning balances
3. Project needed ending cash balance reserves (cash flow, compensation changes)
4. Project the Current Service Level (CSL) budget including items to be phased in and phased out, standard and exceptional inflation, any need for revenue reduction package.

Next steps:

1. Key Performance Measure (KPM) approval – see Item 4c on the agenda.
2. ORPICS roll – anticipated in mid-April, this will estimate Personal Services costs for the biennium.
3. Determine actual need for exceptions and calculate the dollar amount to request.
4. Review, price and prioritize proposed policy packages.
5. Determine recommendations for packages, management ratio and reductions to propose to the Commission.
6. Commission approval – June meeting.

Prior Action by Commission: A budget workshop on the process was provided at the November 2021 meeting; information on revenues was presented at the February 2022 meeting.

Action Requested: None.

Attachments: None.

Prepared by: Tanya Crane, Budget Manager

Oregon Parks and Recreation Commission

April 13, 2022

Agenda Item: 4c Action

Public Comment Allowed: Yes

Topic: 2023-25 Key Performance Measures

Presented by: Tanya Crane, Budget Manager

As the 2023-25 biennium budget is built, one piece of the budget is Key Performance Measures (KPM). Each agency has a list of measures that are approved by the Legislature as part of the agency's budget bill.

The chart on the next page shows the list of currently approved measures and targets for the Department. Attachment A is the most current KPM report. The Department will develop new targets for each of the measures for 2024 and 2025.

Each budget cycle there is an opportunity to propose changes to the measures. OPRD is not considering changes to these measures at the present time. OPRD will develop a data source for the Customer Service measure for the 2023 and future reporting periods.

The Department will be working on internal measures that will provide meaningful data for decision making. Once the governance model has been reviewed and finalized, a review of these measures will be undertaken to see what modifications are necessary.

Oregon Parks and Recreation Department										
Key Performance Measures										
Measure:	Metric	2019		2020		2021		2022	2023	
		Actual	Target	Actual	Target	Actual	Target	Target	Target	
1	Park Visitation - Visitors per acre of Oregon Parks and Recreation Department property.	486	510	391	450	493	450	450	450	
2	Heritage Program Benefits - Number of properties, sites, or districts that benefits from an OPRD managed heritage program.	2,052	2,087	2,065	2,107	2,106	2,130	2,130	2,130	
3	Grant Programs - Percent of Oregon communities that benefit from an OPRD managed grant program.	53.0%	50.0%	55.0%	54.7%	60.0%	57.1%	57.1%	57.1%	
4	Property Acquisition - Recreation lands index: Park lands and waters acquired by OPRD as a percentage of total goal. (Linked to Oregon Benchmark #91)	77%	75%	76%	82%	76%	83%	83%	83%	
5	Facilities Backlog - Percent reduction in facilities backlog since 1998. Note 1	82%	86%	0%	85%	83%	85%	85%	85%	
6	Customer Satisfaction - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall customers service, timeliness, accuracy, helpfulness, expertise and availability of information. Note 2	Accuracy	0%	95%	0%	95%	0%	95%	95%	95%
		Avail Information	0%	95%	0%	95%	0%	95%	95%	95%
		Overall	0%	95%	0%	95%	0%	95%	95%	95%
		Helpfulness	0%	95%	0%	95%	0%	95%	95%	95%
		Timeliness	0%	95%	0%	95%	0%	95%	95%	95%
7	Commission best practices - Percent of total best practices met by State Parks and Recreation Commission.	Expertise	0%	95%	0%	95%	0%	95%	95%	95%
			100%	100%	100%	100%	100%	100%	100%	100%
Note 1 - This data is compiled every two years.										
Note 2 - This data source is no longer functioning per Chris Havel. OPRD is in the process of switching to a web based survey. Annual report requires a zero value instead of "no data".										

Prior Action by Commission: A budget workshop on the process was provided at the November 2021 meeting; information on revenues was presented at the February 2022 meeting.

Action Requested: None.

Attachments: 4c Attachment A Key Performance Measures

Prepared by: Tanya Crane, Budget Manager

Key Performance Measures

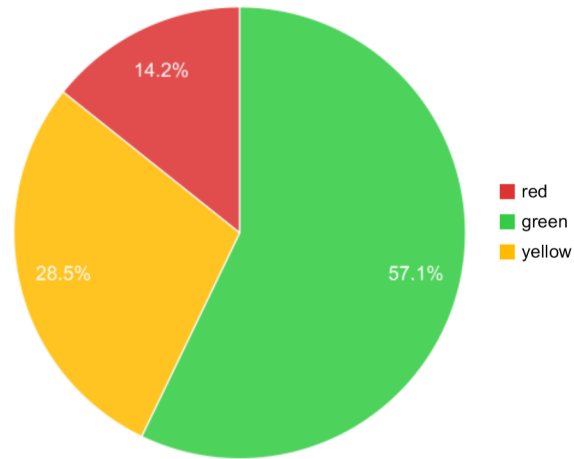
Parks and Recreation Department

Annual Performance Progress Report

Reporting Year 2021

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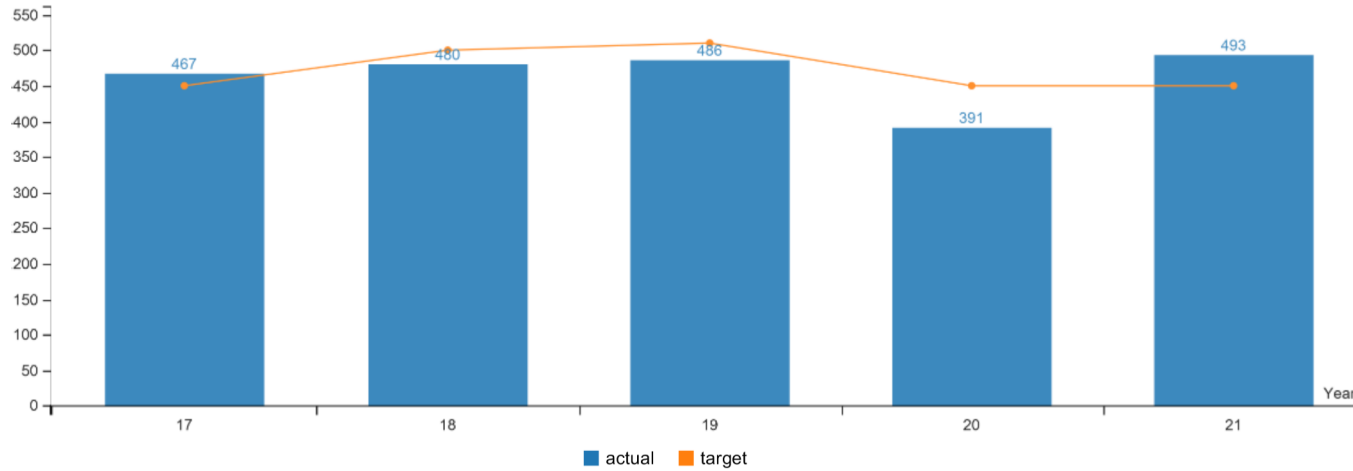
KPM #	Approved Key Performance Measures (KPMs)
1	PARK VISITATION - Visitors per acre of Oregon Parks and Recreation Department property.
2	HERITAGE PROGRAM BENEFITS - Number of properties, sites, or districts that benefit from an OPRD-managed heritage program.
3	Grant Programs - Percent of Oregon communities that benefit from an OPRD-managed grant program.
4	PROPERTY ACQUISITION - Recreation lands index: Park lands and waters acquired by OPRD as a percentage of total goal. (Linked to Oregon Benchmark #91)
5	FACILITIES BACKLOG - Percent reduction in facilities backlog since 1999.
6	CUSTOMER SATISFACTION - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall customer service, timeliness, accuracy, helpfulness, expertise and availability of information.
7	COMMISSION BEST PRACTICES - Percent of total best practices met by the State Parks and Recreation Commission.



Performance Summary	Green	Yellow	Red
	= Target to -5%	= Target -5% to -15%	= Target > -15%
Summary Stats:	57.14%	28.57%	14.29%

KPM #1	PARK VISITATION - Visitors per acre of Oregon Parks and Recreation Department property.
	Data Collection Period: Jul 01 - Jun 30

* Upward Trend = negative result



Report Year	2017	2018	2019	2020	2021
Visitors Per Acre of Oregon Parks and Recreation Department Property					
Actual	467	480	486	391	493
Target	450	500	510	450	450

How Are We Doing

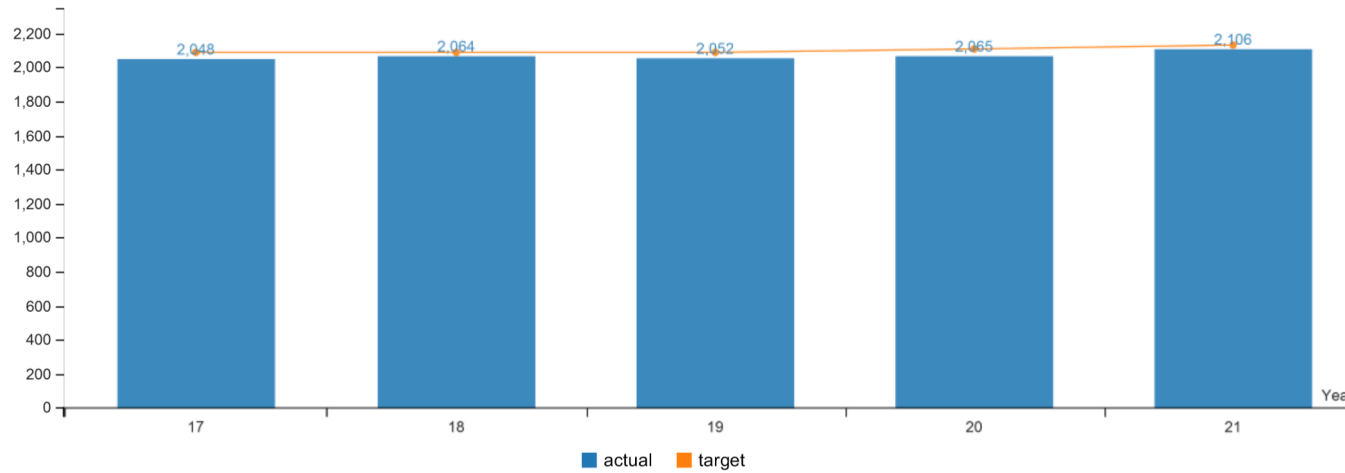
FY 2021 results are 493 visitors per acre, a 26.0% increase from the 391 visitors per acre in FY 2020 and above the FY 2021 target of 450. The main contributing factor to this increase is a large growth in visitation, with overnight and day use attendance returning to pre-COVID numbers. The Department continues to selectively purchase additional park properties in order to serve an increasing population while maintaining a quality visitor experience. Total visitation in FY 2021 was 55.8 million, a 26.1% increase from FY 2020.

Factors Affecting Results

Typically, factors affecting the numerator (visitor attendance) include weather, economic conditions, perceived attractiveness of the recreational offering, and park closures (for construction, storm damage, etc.), with factors affecting the denominator (acreage) including availability of land for acquisition (from willing sellers), and availability of funds for the purchase.

KPM #2	HERITAGE PROGRAM BENEFITS - Number of properties, sites, or districts that benefit from an OPRD-managed heritage program.
	Data Collection Period: Jul 01 - Jun 30

* Upward Trend = positive result



Report Year	2017	2018	2019	2020	2021
Number of Properties, Sites, or Districts That Benefit From an OPRD-Managed Heritage Program					
Actual	2,048	2,064	2,052	2,065	2,106
Target	2,087	2,087	2,087	2,107	2,130

How Are We Doing

Oregon continues to perform well when compared against neighboring western states, listing more properties in the National Register than Idaho and Nevada combined, and six more properties than Washington, a more populous state with similar historic resources.

19 new properties were added to the list in Oregon, including the 1927 Williams Avenue YWCA, a gathering place for the African American Community, and the Darcelle XV club, a prominent landmark for the Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) community, both located in Portland. Other notable properties listed in the National Register include a segment of the Oregon Trail in Union County, a former rail bridge in Mill City now rehabilitated as a pedestrian crossing, and Forest Grove's downtown historic district. Two properties were removed from the National Register due to extensive alterations over time.

A total of 2,106 properties, including 163 historic districts, located across the state's 36 counties and representing many aspects of our rich history, are now listed in the National Register.

Factors Affecting Results

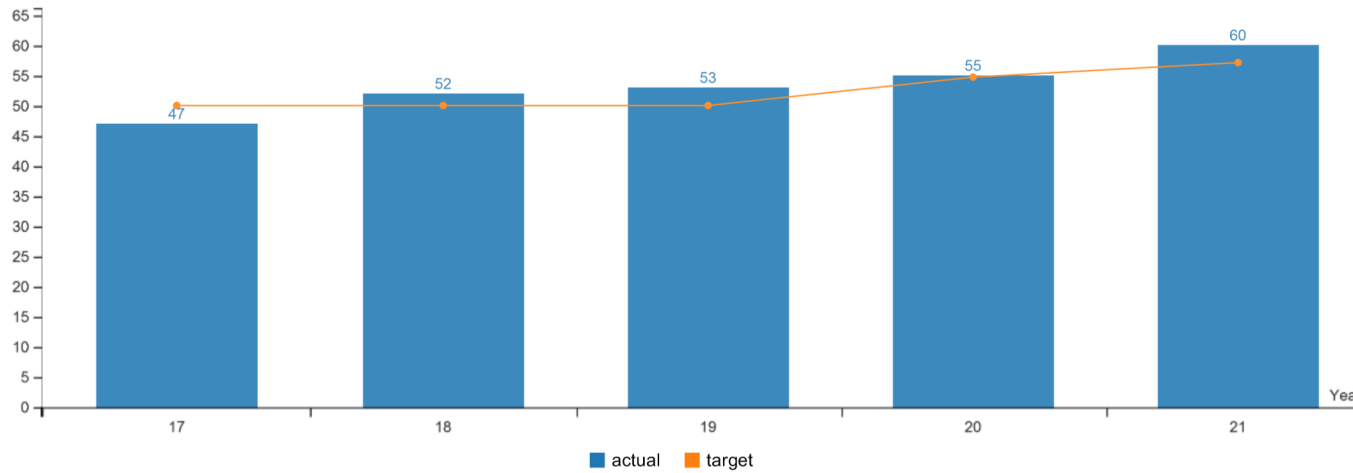
The overall numbers of new designations are relatively steady in comparative states over the last several years, with the notable exception of a jump in total listings in California. Despite a 30% cutback in staff and budget during the last fiscal year, the total number of nominations in Oregon increased from 11 for FY 2020 to 19 for FY 2021. Primary drivers for program participation included increasing public interest and OPRD grant-funded projects that enabled local governments to identify, document, and list properties in the National Register.

Efforts over the last several years under the Oregon Historic Preservation Plan and Oregon Heritage Plan focused on reaching out to underrepresented populations to achieve greater geographic and

thematic diversity in the stories represented by our recognized historic places. This effort will continue into the next fiscal year, supported by agency grants to local jurisdictions and office-led efforts. The agency recently completed a study for the Oregon Trail, and will complete documents identifying properties associated with African American history and historic properties associated with the 1930s New Deal federal programs. The agency is also supporting an effort to list four rural, historic movie theaters in Oregon using a grant from the National Park Service. These theaters are often the architectural and business center of their communities, and their recognition will bring attention to their importance and investment to these places.

KPM #3	Grant Programs - Percent of Oregon communities that benefit from an OPRD-managed grant program.
	Data Collection Period: Jul 01 - Jun 30

* Upward Trend = positive result



Report Year	2017	2018	2019	2020	2021
Percent of Oregon communities that benefit from an OPRD-managed grant program					
Actual	47%	52%	53%	55%	60%
Target	50%	50%	50%	54.70%	57.10%

How Are We Doing

FY 2021 results include an unduplicated count of the number of communities that were awarded Department grants for FY 2020 and FY 2021. Results show that 60% of Oregon communities (165 of 277) have benefited from an OPRD managed grant program over this time period, up from the 55% reported the previous year.

Success in meeting this measurement is attributed to continued outreach efforts and education. In addition, a number of grant advisory committee members, as well as staff, reach out to unsuccessful grant applicants in an effort to provide direct education and assistance.

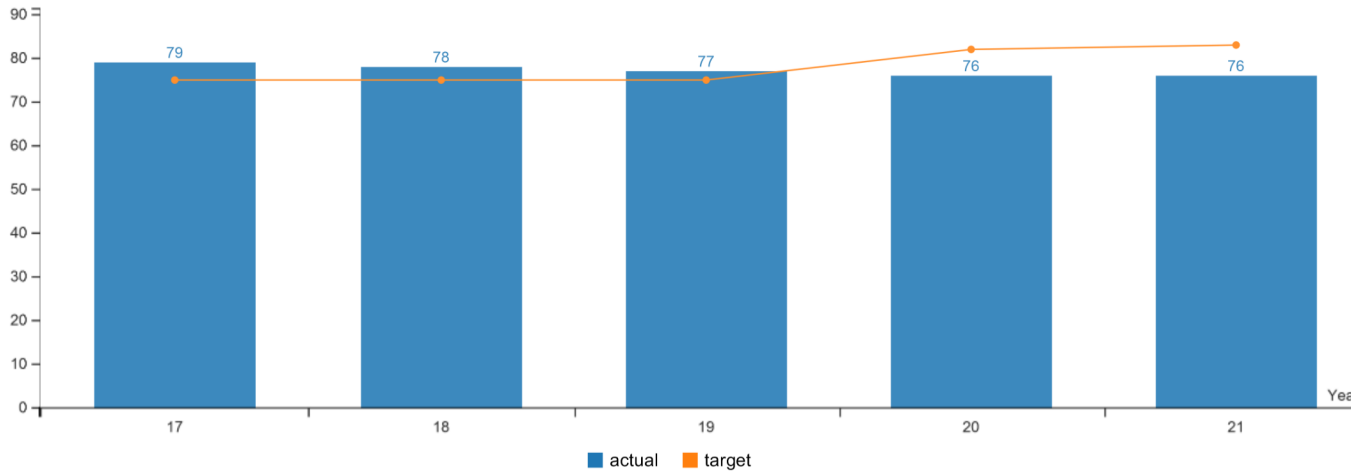
All grant awards approved by the Oregon Parks and Recreation Commission are included; however, some awards may be canceled due to reduced funding as a result of the COVID-19 pandemic.

Factors Affecting Results

Factors affecting results include the availability of grant funding, grant program requirements for local match and other local commitments, maximum allowable grant award amounts, number of grant applicants, and geographic distribution of grant applicants.

KPM #4	PROPERTY ACQUISITION - Recreation lands index: Park lands and waters acquired by OPRD as a percentage of total goal. (Linked to Oregon Benchmark #91)
	Data Collection Period: Jul 01 - Jun 30

* Upward Trend = positive result



Report Year	2017	2018	2019	2020	2021
Park Lands and Waters Acquired by OPRD as a Percentage of Total Goal					
Actual	79%	78%	77%	76%	76%
Target	75%	75%	75%	82%	83%

How Are We Doing

Targets for this measure indicate the desire of moving towards a total goal of approximately 35 acres per 1,000 population, with the data measured and reported by fiscal year. As park areas reach capacity, this information assists the Department in making decisions about future expansion of the system in keeping the balance between recreation opportunities and natural resource protection.

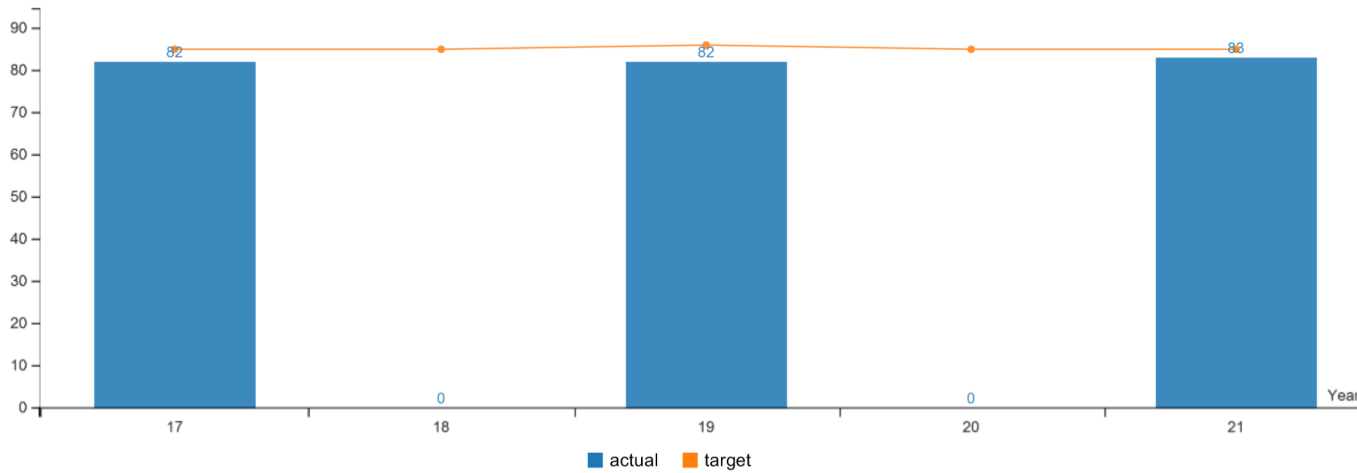
FY 2021 results indicate that the agency was at 76% of the total goal and below the target of 83%. Results remain flat from last year as Oregon's population increased at a slightly higher rate than the growth in park acreage.

Factors Affecting Results

Oregon's population continues to increase at a higher rate than other states, impacting the denominator of the calculation. Acquisition of property is affected by the availability of land meeting agency criteria, availability of adequate department funds to purchase property, and real estate prices. The COVID-19 pandemic has also limited available funding to purchase new properties.

KPM #5	FACILITIES BACKLOG - Percent reduction in facilities backlog since 1999.
	Data Collection Period: Jul 01 - Jun 30

* Upward Trend = positive result



Report Year	2017	2018	2019	2020	2021
Percent Reduction in Facilities Backlog					
Actual	82%	0%	82%	0%	83%
Target	85%	85%	86%	85%	85%

How Are We Doing

While data is tracked continuously, it is reported on a biennial basis, with FY 2021 being the most recent reporting period. FY 2021 data shows that progress continues to be made in reducing the maintenance backlog. Efforts are continuing to re-assess additional maintenance backlog and all deferred maintenance that has accrued since 1999.

Factors Affecting Results

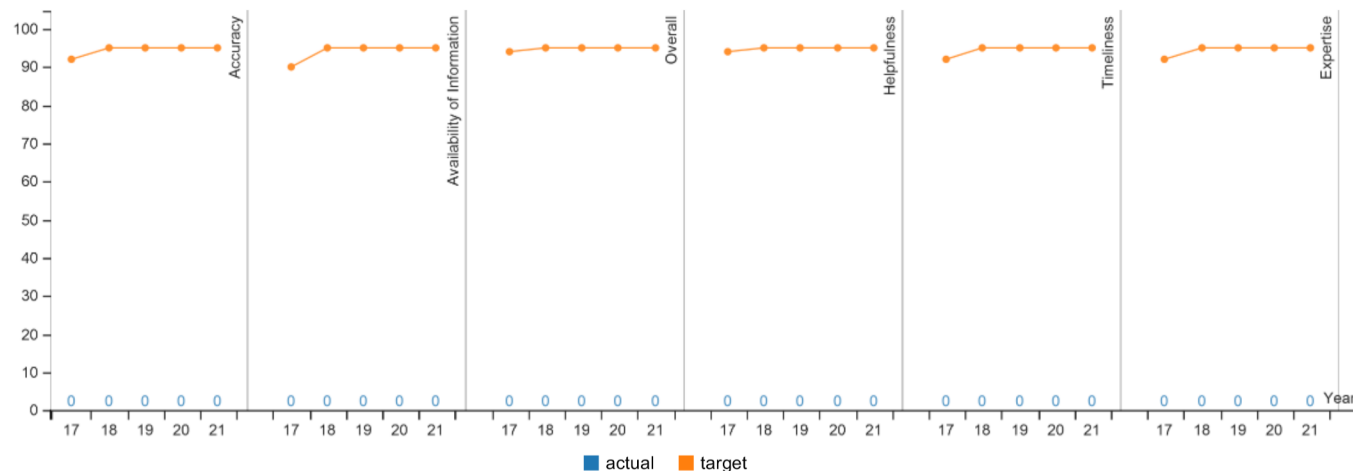
Park Construction priorities are funded each biennium from the Parks and Natural Resources Fund (Lottery); current financial implications have reduced this funding source. Investments are made in two areas:

1. Major maintenance to reduce backlogged repairs and deferred maintenance including improvements in efficiency and sustainability; and.
2. Enhancements to meet future needs. The backlog reduction could be impacted by decisions to increase or decrease the focus of resources on the enhancement projects.

The Department is evaluating the continued emphasis on buying down of the original backlog and ensuring that the priorities are the most current and necessary. Emergent maintenance issues continue to arise that require more immediate funding with the Department feeling this list should be evaluated and updated more frequently.

KPM #6 CUSTOMER SATISFACTION - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall customer service, timeliness, accuracy, helpfulness, expertise and availability of information.

Data Collection Period: Jul 01 - Jun 30



Report Year	2017	2018	2019	2020	2021
Accuracy					
Actual		0%	0%	0%	0%
Target	92%	95%	95%	95%	95%
Availability of Information					
Actual		0%	0%	0%	0%
Target	90%	95%	95%	95%	95%
Overall					
Actual		0%	0%	0%	0%
Target	94%	95%	95%	95%	95%
Helpfulness					
Actual		0%	0%	0%	0%
Target	94%	95%	95%	95%	95%
Timeliness					
Actual		0%	0%	0%	0%
Target	92%	95%	95%	95%	95%
Expertise					
Actual		0%	0%	0%	0%
Target	92%	95%	95%	95%	95%

How Are We Doing

The original data source for the KPM is no longer functioning and OPRD anticipates there won't be a working replacement until FY 2022. OPRD is in the process of identifying appropriate data sources including a web-based survey and other sources to capture a wide array of agency customers.

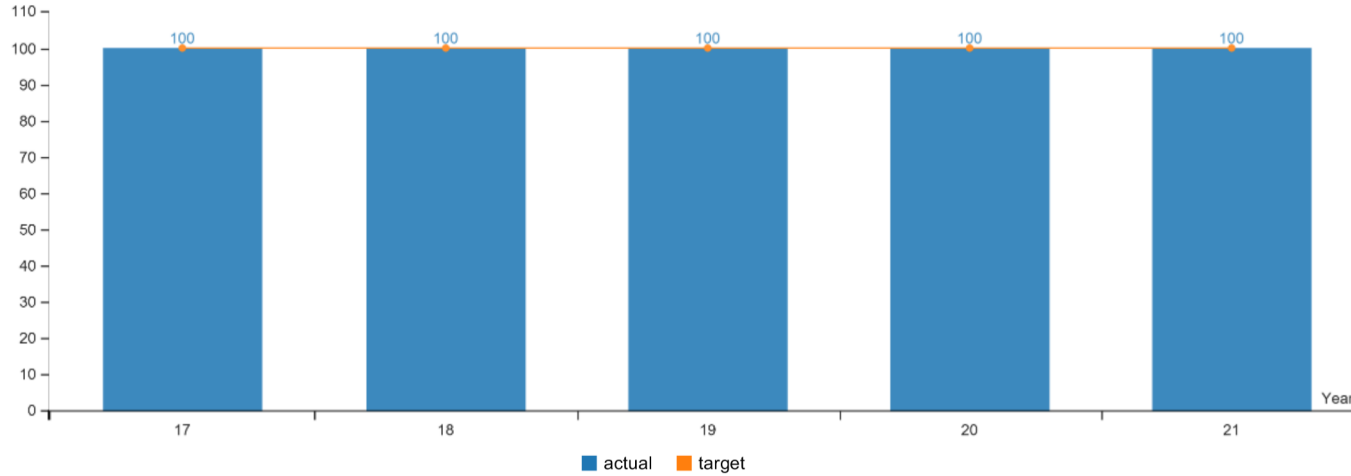
There will be a gap in the data until the new system starts producing results.

Factors Affecting Results

Satisfaction dips when parks are crowded, even if the quality of service remains high.

KPM #7	COMMISSION BEST PRACTICES - Percent of total best practices met by the State Parks and Recreation Commission.
	Data Collection Period: Jul 01 - Jun 30

* Upward Trend = positive result



Report Year	2017	2018	2019	2020	2021
Percent of Commission Best Practices Met					
Actual	100%	100%	100%	100%	100%
Target	100%	100%	100%	100%	100%

How Are We Doing

This measure is required of all agencies by the Department of Administrative Services. A list of 15 mandated best practices include business processes, oversight duties, budget and financial planning, and training.

Annual self-evaluation by members of the Oregon State Parks and Recreation Commission where commissioners independently evaluate group performance, then collectively discuss their findings to produce a consensus report. The process for self-evaluation and discussion will improve over time.

The first data was available in November 2007, with the most recent data applying to FY 2021.

Factors Affecting Results

Many measures are subjective and require experienced Commissioners to develop reasoned answers. Newly appointed Commissioners can affect results.

Oregon Parks and Recreation Commission

April 13, 2022

Agenda Item:	5a	Action
Public Comment Allowed:	Yes	
Topic:	ODOT - I-84 Culvert Project	
Presented by:	Ladd Whitcomb, Property Agent	

The Oregon Department of Transportation (ODOT) is replacing or sleeving old and failing culverts along I-84 to ensure continued safe travel by the motoring public. Outfall for three of the culverts scheduled for maintenance are within state park boundaries at Koberg Beach State Recreation Site (see Attachment A), Memaloose State Park (see Attachment B), and Mayer State Park (see Attachment A).

When these three properties were transferred from ODOT to OPRD, ODOT correctly retained the right-of-way for I-84, but failed to retain permanent easements at the outfall of these culverts that would have allowed them the right to access their culverts for continued maintenance. As they were preparing for this culvert maintenance project, they discovered this oversight and approached us for the needed easements.

OPRD intends to grant them the easements that they should have had all along. Not only does this I-84 culvert maintenance project not interfere with recreation or the recreating public, but it is needed for proper drainage so that OPRD property (including recreation areas, access roads, and landscape), and the recreating public remain safe.

Staff recommends that these permanent easements be granted to ODOT and respectfully requests this Commission vote to approve this action item.

Prior Action by Commission: Informational item presented February 24, 2022

Action Requested: Approving vote

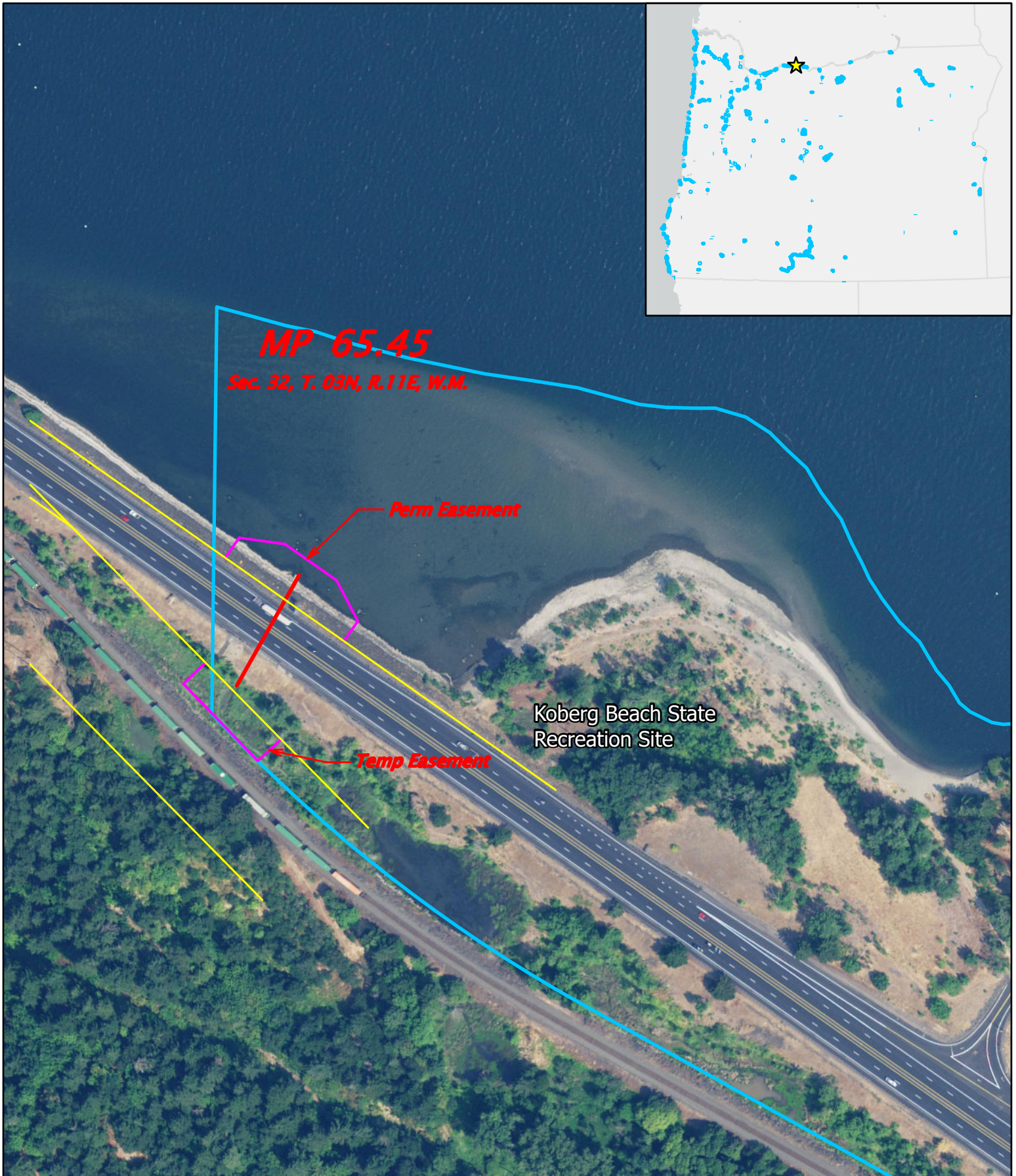
Attachments: 5a - Attachment A - Koberg Map
5a - Attachment B - Memaloose Map
5a - Attachment C - Mayer Map

Prepared by: Ladd Whitcomb

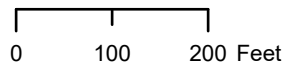
5a - ODOT - I-84 Culvert Project

Attachment A - Koberg Map

Oregon Parks and Recreation Dept.
725 Summer St. NE, Suite C
Salem OR, 97301



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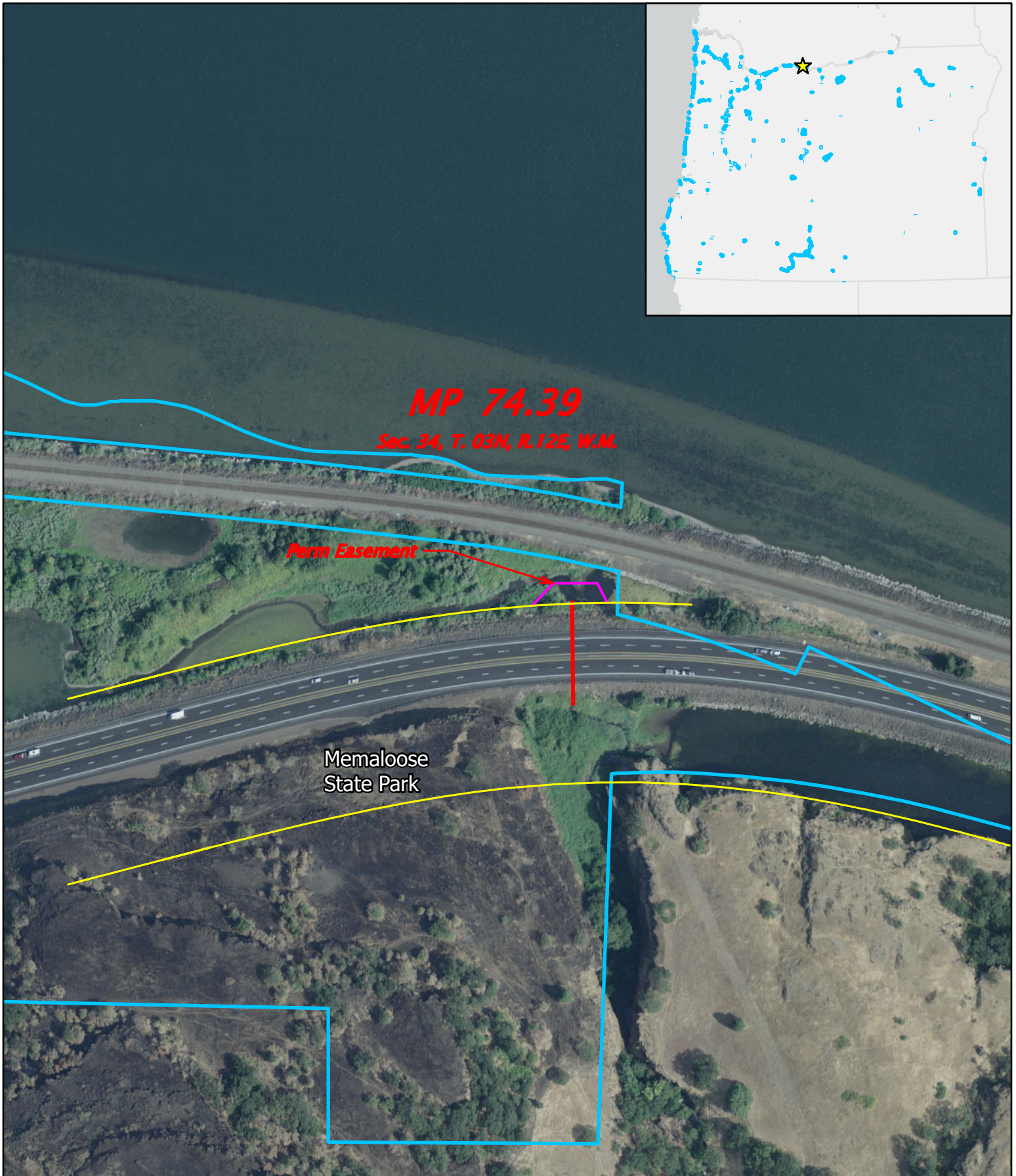
David.Quillin 2/1/2022

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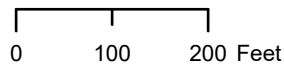
5a - ODOT - I-84 Culvert Project

Attachment B - Memaloose Map

Oregon Parks and Recreation Dept.
725 Summer St. NE, Suite C
Salem OR, 97301



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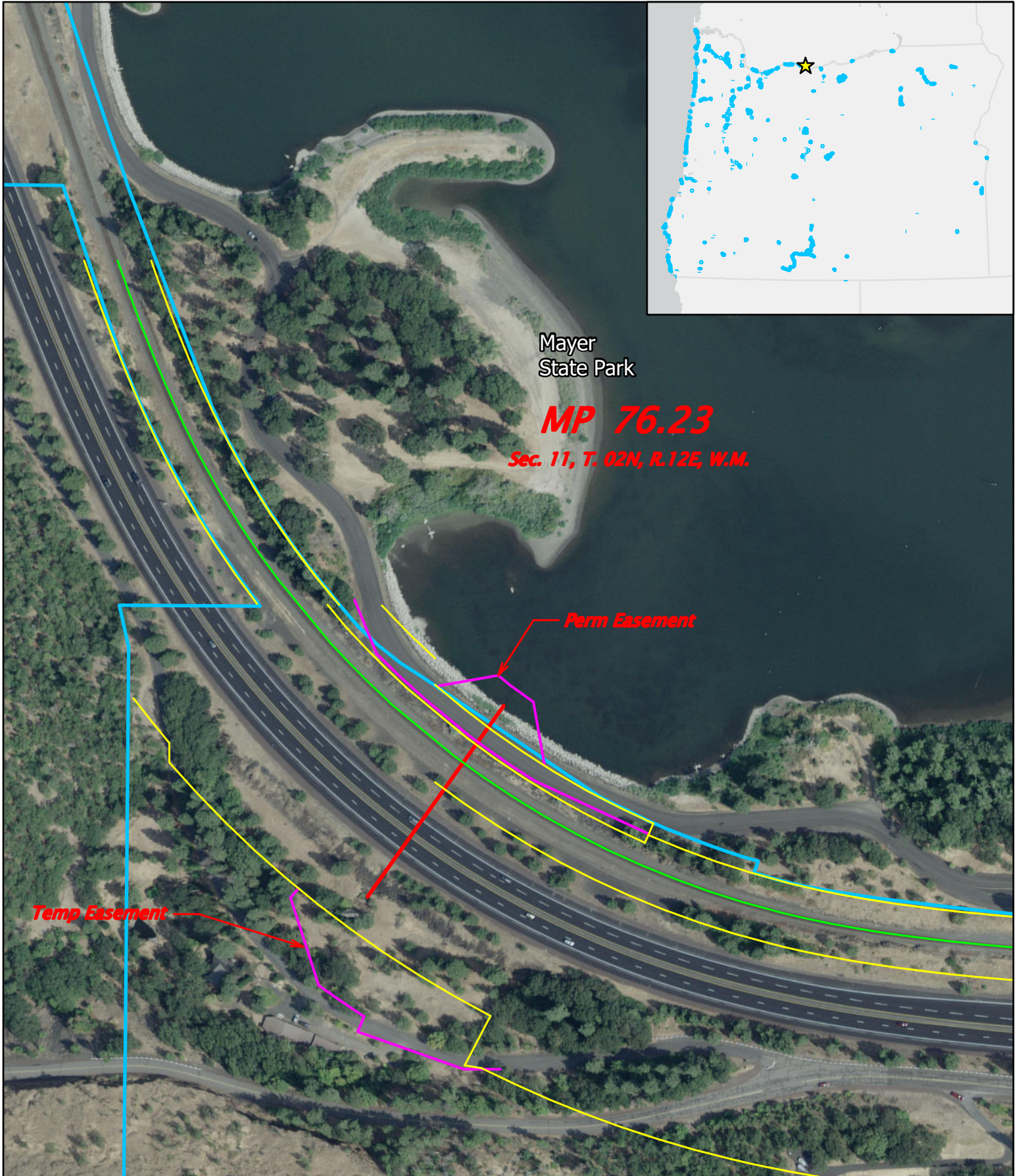
David.Quillin 2/1/2022

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5a - ODOT - I-84 Culvert Project

Attachment C - Mayer Map

Oregon Parks and Recreation Dept.
725 Summer St. NE, Suite C
Salem OR, 97301



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David.Quillin 2/1/2022

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Oregon Parks and Recreation Commission

April 13, 2022

Agenda Item:	5b	Action
Topic:	Request to accept donation of a Karavan Log Truck- Collier Memorial State Park	
Presented by:	J.R. Collier, Deputy Director-Operations	

Collier Memorial State Park consists of a small campground, day-use areas and an outdoor historic logging museum in Klamath County. The collection at the Collier Memorial Logging Museum consists of hundreds of pieces of equipment that have been donated and acquired since the 1940s and is one of the largest collections of its type in the nation. From horse drawn implements to railroad logging engines to modern logging trucks, these pieces show a cross section of logging history relevant to Oregon and the West from the late 1800s to present day.

Over the last several years, park staff have been diligently working to refine the collection to ensure it is correctly organized and accessioned. This work has been instrumental in helping the museum determine what types of items are relevant to the collection and to develop a solid process to determine if a new donation should be accepted into the collection. Defining the Scope of Collection for the Logging Museum has made the process of determining new acquisitions/donations far easier.

In mid-February of 2022, the museum lead at Collier Memorial was contacted by an individual wishing to make an equipment donation to the Logging Museum. This private donor is asking us to accept a fully restored 1919 Karavan Log Truck. The truck was restored by her late husband, and she is wanting to make the donation in his memory. The unit is extremely rare and has numerous awards from car shows and parades in its current home in Arizona. With a top speed of 15 MPH, staff hope to use the unit in events and parades in the park and surrounding areas. The Karavan Motors Co. was a small vehicle manufacturing company in Portland, OR and these units were often used as logging trucks in their time, hence the relevance to our collection. The donor has placed no restrictions on her donation other than recommending that the unit be stored under cover during the winter months and park staff have identified covered storage at the park to accommodate this unit if the donation is made. Staff have received bids of between \$2000-\$3000 to have the vehicle transported to Oregon via professional transport. The owner has disclosed that the vehicle has been appraised at \$70,000 and while we have not independently verified that value, we feel the value likely exceeds the Director's authority to accept as a gift and are presenting today to seek permission to accept this generous gift into our collection.

Prior Action by Commission: None

Action Requested: Approval to accept donation

Prepared by: J.R. Collier

COMMERCIAL CAR DEPARTMENT

weight 7000 lb., body weight permitted 1600 lb. Wooden wheels standard.

Model T, 12,000 lb. capacity; Motor has four cylinders 4¼ x 6½ in., giving 50 hp. at 850 r.p.m. Frame 9 in. deep with 3¼ in. flange of steel ¼ in. thick. Speed in m.p.h., 2.07 on first, 3.88 on second, 6.89 on third, 11

on fourth, 1.71 on reverse. Wheelbase 172 in., driver's seat to end of frame 168 in. Chassis weight 9200 lb., body weight allowed 1800 lb. Steel wheels standard.

The Farm Special specifications are practically the same as to power, measurement, etc., as the 1½-ton models.

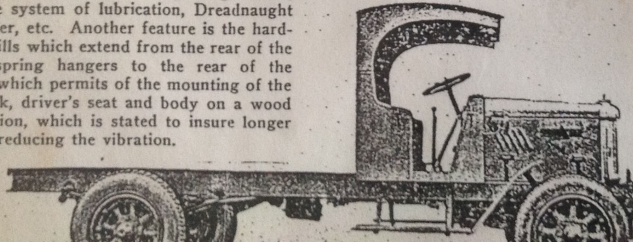
The New Karavan Two and a Half Ton Truck is Introduced

THE Karavan Motors Co., Portland, Ore., are placing on the market a new 2½-ton truck, known as the Model A Karavan. This company was recently organized with a capital of \$100,000, and has for its officers the following: E. D. Van Dersal, president; Fred Hesse, vice-president and consulting engineer, who is also manager of the Hesse Iron Works, Portland, Ore.; Witney L. Boise, secretary, and George H. Peters, engineer.

Besides being equipped with well-known standard truck units, this worm-drive truck also includes in its equipment, many of the effective parts of recognized practice, such as the Orem dustster, Duplex governor, Alemite system of lubrication, Dreadnaught odometer, etc. Another feature is the hardwood sills which extend from the rear of the front spring hangers to the rear of the frame, which permits of the mounting of the gas tank, driver's seat and body on a wood foundation, which is stated to insure longer life by reducing the vibration.

ditions, gear reduction to be employed and tire specifications. The chassis weight is 5700 lb. and permits of a body allowance of 1300 lb. Either of two wheelbases may be obtained, one of 148 in., the other 168 in.

The power plant consists of a Buda engine with a bore and stroke of 4¼ x 6 in., respectively. It is of the 4-cylinder L-head type, cast in block with removable head. The force system of lubrication is employed, forcing oil through drilled holes in crankshaft to main bearings. Oil pressure can be ascertained at any time from a pressure gauge on the dash. Ignition is provided by a Berling



The power is transmitted from the through a Brown-Lipe clutch, which consists of 12 Raybestos lined plates, Brown-Lipe, selective-type, transmits suspended axleships on three points. gears on this device provide four speeds forward and one reverse. The speed is m.p.h. on solid tires and 18 m.p.h. on pneumatics and is controlled by a Duplex governor, which is driven by the motor when high gear and by the transmission when other speeds are employed. Power for air pump is also received from the transmission, which is transmitted from a po

Engine of the Karavan Truck

Herewith is shown the 2½-ton Karavan truck engine. It is a Buda, with a bore and stroke of 4¼ x 6 inches respectively. It is of the four-cylinder L-head type, cast in block with removable head. The force-feed of lubrication is employed through drilled holes through the crankshaft to the main bearings.

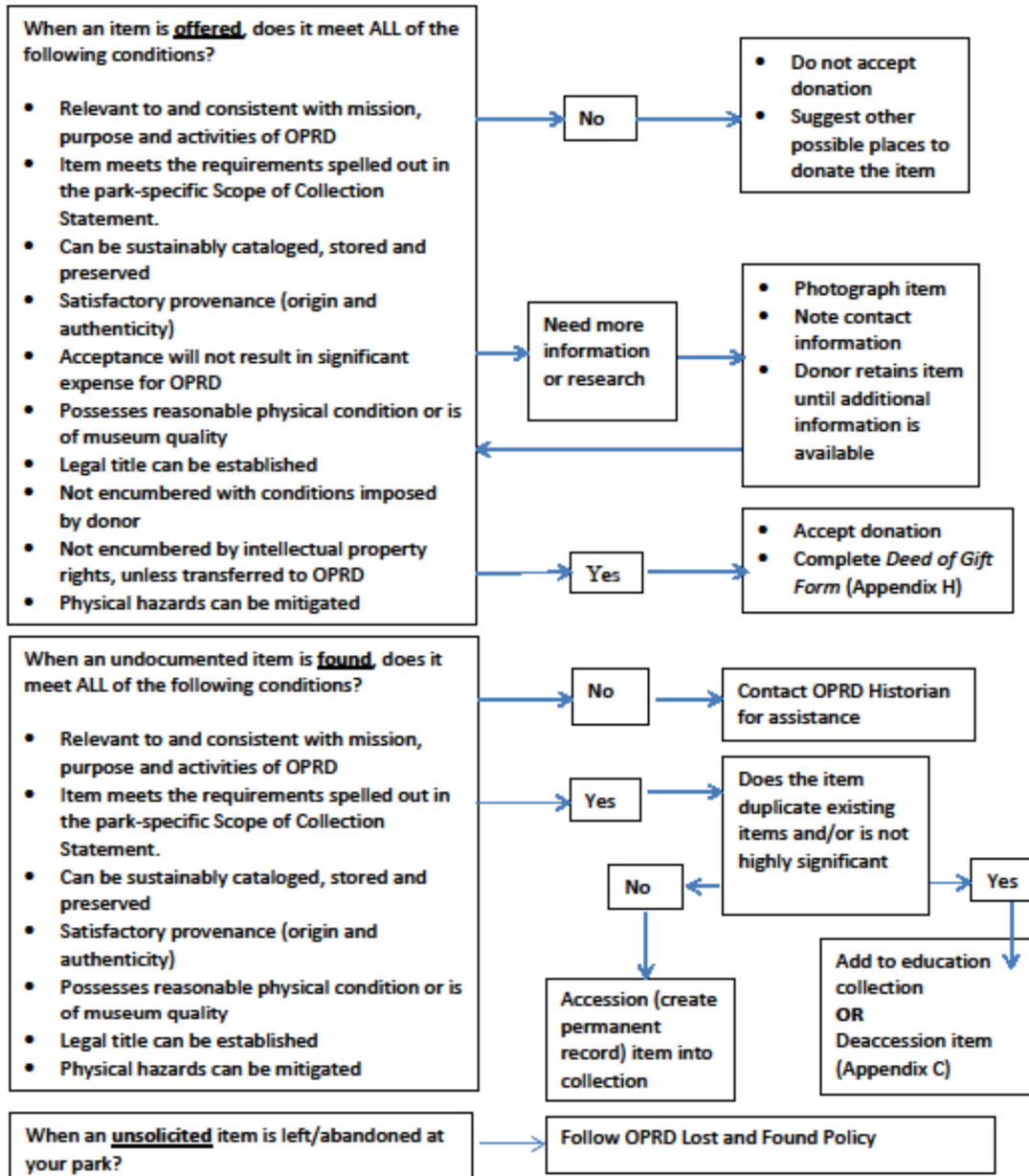


take-off. Timken bearings and extra wide faced gears are used in the transmission. Power is further transmitted from the gear set through a tubular drive shaft, provided with Spicer universal joints, to a Shel worm-drive rear axle.

Steering is through a Ross, worm and solid nut, steering gear, and is encased in oil-tight housing. This gear has but one adjustment and is mounted on the left side. Throttle and spark levers are provided on the top of the steering wheel, in addition to a hand throttle and foot accelerator pe



Acquisition and Accession Flow Chart



Oregon Parks and Recreation Commission

April 13, 2022

Agenda Item:	6a	Action
Topic:	Land and Water Conservation Fund (LWCF) Grant Approval (funded through National Park Service)	
Public Comment Allowed:	Yes	
Presented by:	Daniel Killam, Deputy Director of Administration	

Background:

Congress established the LWCF in 1964 to create parks and open space; protect wilderness; wetlands and refuges; preserve habitat; and enhance recreational opportunities. The federal funds for this program come, primarily from Outer Continental Shelf revenues derived from leasing oil and gas sites in coastal waters. Over time, Oregon has received approximately \$67 million from this source.

Categories of eligible projects include acquisition, development, and rehabilitation. Eligible applicants are cities, counties, park and recreation districts, metro, port districts, tribes, and Oregon State agencies. Funds are allocated at least 60% to local agencies and up to 40% to state agencies. Project Sponsors must provide at least 50% funding match. Funded projects must be maintained for outdoor recreation in perpetuity.

Recommended projects for the 2021 grant cycle are listed on the attached spreadsheet. OPRD staff conducted a technical review of all submitted applications. The Oregon Outdoor Recreation Committee (Grant Advisory Committee) met February 10, 2022, via web conference to evaluate grant applications. After listening to presentations from each applicant and using criteria established in the 2019-2023 Statewide Comprehensive Outdoor Recreation Plan (SCORP), the committee ranked the project applications.

There were six grant applications received requesting a total of \$2,040,874. Of the six applications received, five projects are recommended for funding for a total of \$1,573,824. The balance of funding will be made available in the next grant cycle opening in fall of 2022.

Prior Action by Commission: None, other than LWCF approvals through time.

Action Requested: Staff requests that the Commission approve the ranking and distribution of LWCF grants as recommended by the Oregon Outdoor Recreation Committee and award funds as they are available from National Park Service (NPS). Be advised the final grant award amounts may be adjusted.

Attachments: 6a Attachment A: 2021 LWCF Grant Recommendations/Ranking
6a Attachment B: 2021 LWCF Project Map

Prepared by: Michele Scalise

**Oregon Park and Recreation Department
Land and Water Conservation Fund Grant Program
\$4,033,261 Available**

Rank	Applicant	Project Name	Brief Project Description	Funds Requested	Matching Funds	Total Cost
1	City of Corvallis	Avery Park Inclusive Playground and Restroom	Replace outdated playground equipment and restroom facilities with an inclusive play area and accessible restrooms connected by pathways and designed to facilitate play, stimulation, and access for our diverse population.	\$437,500	\$437,500	\$875,000
2	City of Sutherlin	Ford's Pond Community Park-Inclusive Playground	The project will purchase and install play equipment, and design/construct ADA-parking for RVs/buses, with sidewalks, ramps, bioswale, lighting, furnishings, landscaping, and security cameras at Ford's Pond Community Park.	\$592,879	\$592,879	\$1,185,757
3	City of Umatilla	Nugent Park Development	The project will replace existing playground and shelter equipment with new accessible equipment, a large group shelter, sidewalk and restriping and resurfacing of parking area accessible for people of all abilities a...	\$237,727	\$237,727	\$475,453
4	Northern Wasco County Parks and Recreation District	Thompson Park Skatepark Bowl and Pumptrack	This project will add 14,550 sq. ft. to our existing skatepark, constructed in 2011, to include a concrete bowl and an asphalt pumptrack.	\$247,219	\$247,219	\$494,437
5	City of Florence	Rolling Dunes Park Improvements	The Rolling Dunes Improvement Project would expand the pickleball facility and upgrade accessible design features at Rolling Dunes Park in Florence.	\$58,500	\$58,500	\$117,000

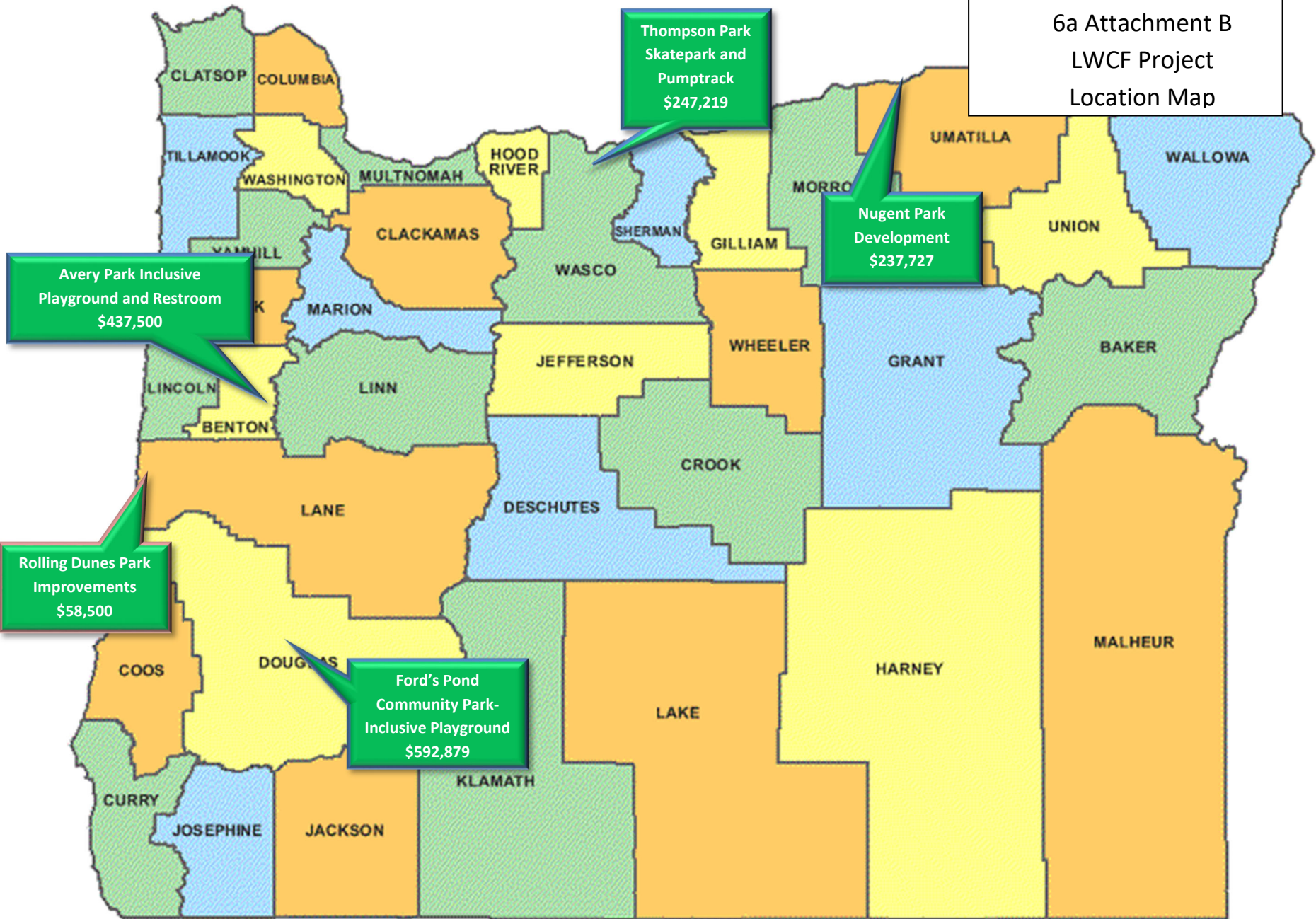
Total recommended for funding: \$1,573,824*

*Final award amounts may be adjusted to address scope and budget recommendations from the Oregon Outdoor Recreation Committee and OPRD Staff.

Funding not recommended below this point						
6	Tualatin Hills Park & Recreation District	Commonwealth Lake Park Bridge and Weir Replacement	Improve accessibility, safety, and preserve recreational longevity of Commonwealth Lake Park by replacing a pedestrian bridge and weir along with making pathway improvements.	\$467,050	\$467,050	\$934,100

Not recommended for funding: \$467,050

6a Attachment B
LWCF Project
Location Map



Oregon Parks and Recreation Commission

April 13, 2022

Agenda Item:	6b	Action
Public Comment Allowed:	Yes	
Topic:	ATV Grant Approvals	
Presented by:	Daniel Killam, Deputy Director of Administration	

Background:

The All-Terrain Vehicle Grant Subcommittee met February 8, 2022, via Zoom to review 12 applications, including two Emergency Medical Services projects, four Development projects, three Equipment purchase projects and three Law Enforcement projects totaling \$584,909. For the 2021-2023 biennium the ATV Grant program has \$11,042,121 available for ATV grants.

In 2021, the Commission approved \$9.92 million in grants for Operations & Maintenance, Law Enforcement, Development and Planning. For the remainder of the biennium, there is approximately \$540,421 remaining for all categories of grants. After the meeting, \$75,000 in de-obligated funds became available to increase the amount available to \$615,421.

The committee scored each grant request based on the applicant's presentation and grant application submitted. Scoring criteria was established in the 2016-2025 Oregon Statewide Trails Plan. The grant requests were ranked by the average of the scores given by the committee.

The ATV Grant Subcommittee recommended funding the projects ranked from 1-11 contingent upon available funding, bringing the total of all grants recommended for funding to \$573,658.54.

This will be the last ATV Program grant cycle for the 21-23 biennium.

Prior Action by Commission: Funding \$9.28 million of grants at the April 2021 meeting and \$661,948 at the June 2021 meeting

Action Requested: Commission approval is requested for the attached ranking and distribution of grants as recommended by the ATV Grant Subcommittee.

Attachments: 6b Attachment A: ATV Grant Project Ranking Results
6b Attachment B: ATV Grant Map of Recommendations

Prepared by: Ian Caldwell and Mike Law, Grants & Community Programs Representatives

2022 All-Terrain Vehicle (ATV) Grant Program

ATV Advisory Grant Subcommittee

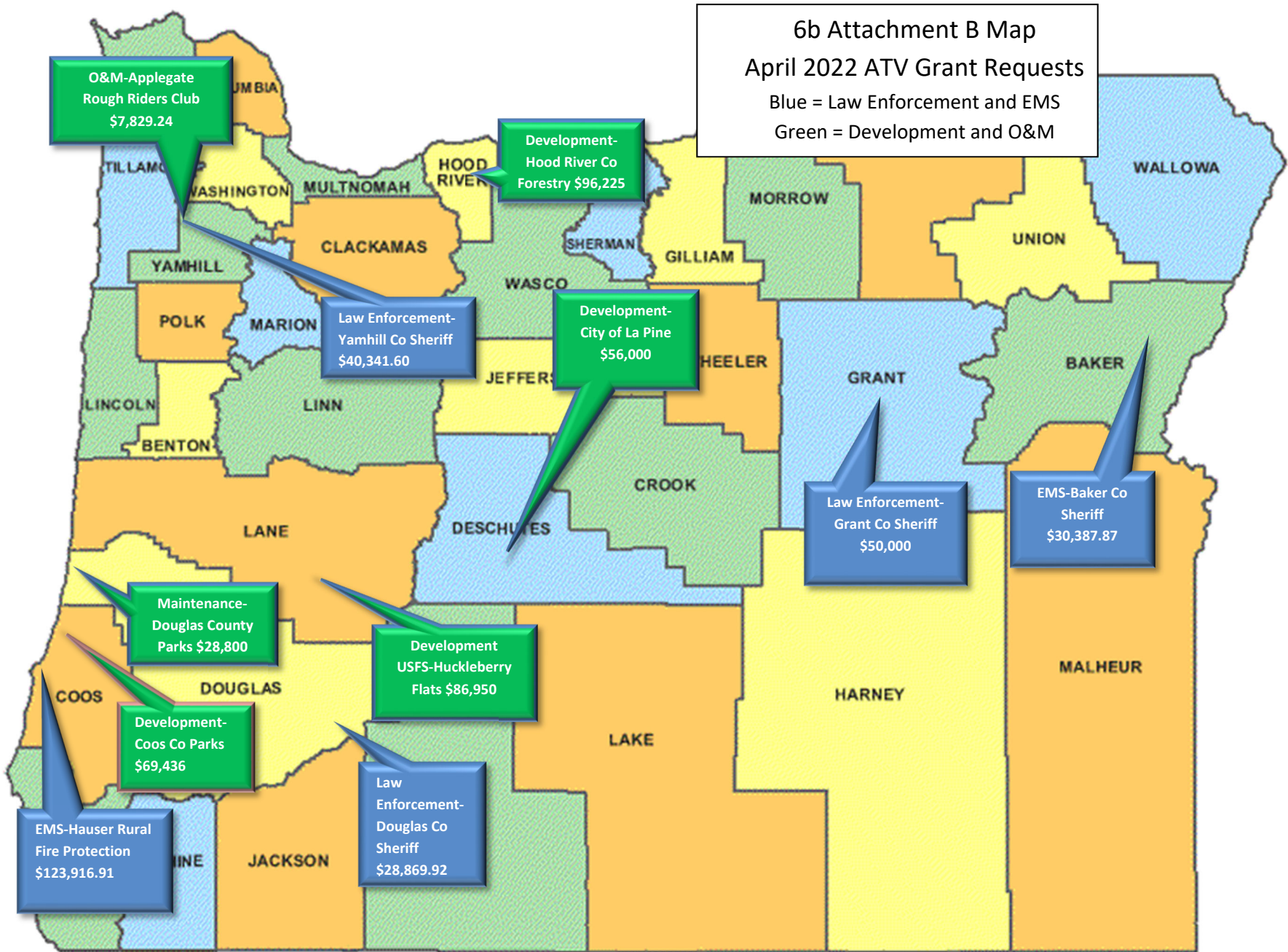
February 8, 2022 Meeting - Ranking Results

\$615,421 Available

Rank	Applicant	Project Name	Brief Project Description	Grant Funds Requested	Matching Funds	Total Project Cost
Recommended						
1	Hauser Rural Fire Department	Hauser Fire Dune Rescue Vehicle Replacement	Replacement of aging Dunes Rescue EMS van. The upgrade will allow for more efficient and effective EMS services within the ODNRA north of Coos Bay where Hauser Fire has responsibility.	\$123,916.91	\$31,000.00	\$154,916.91
2	Hood River County Forestry Department	Hood River County OHV Staging Areas Improvements	This project is focused on improvements at 4 OHV Staging Areas (Kingsley, Binns Hill, Post Flats, Pinemont), on Hood River County Forestry land. Priorities are day use and staging area development, purchase and install of vault toilets, fencing and signage.	\$96,225.00	\$47,470.00	\$143,695.00
3	Baker County Sheriff	Baker County Search and Rescue ATV	To purchase a side by side that is capable of transporting 6 SAR rescue members, a medic and patient that can be immobilized on a backboard.	\$30,387.87	\$7,596.97	\$37,984.84
4	Middle Fork Ranger District USFS	Huckleberry Campground Phase 1	This project will develop camp sites and a motorcycle staging area at Huckleberry Flats OHV area in the Willamette National Forest.	\$41,852.00	\$10,476.40	\$52,328.40
5	Coos County	Riley Ranch D Loop Roadway Paving	Paving 3-inch asphalt within D loop campground, and on the existing rocked road through the day use area of Riley Ranch Campground.	\$69,436.00	\$25,396.00	\$94,832.00
6	City of La Pine	La Pine ATV Staging Site	The City intends to clear and rock a 2 acre ATV staging area located in city limits.	\$56,000.00	\$14,000.00	\$70,000.00
7	Applegate Rough Riders	ARRMC Equipment purchase	Purchase of ATV for trail maintenance activities in Upper Nestucca OHV trail system. Vehicle will be used by club members to clear trail debris and haul trail maintenance equipment to needed areas.	\$7,829.24	\$1,957.31	\$9,786.55
8	Douglas County Parks Department	Douglas County Maintenance Support Equipment	Fund 3 golf carts to replace existing units and improve accessibility for hosts at several Douglas County ATV campgrounds in Winchester Bay.	\$28,800.00	\$7,200.00	\$36,000.00
9	Douglas County Sheriff's Office	DCSO Equipment Purchase	Purchase a side by side UTV with accessories and trailer for our Diamond Lake resident deputy to use to patrol forest roads in the Umpqua National Forest.	\$28,869.92	\$8,930.04	\$37,799.96
10	Sheriff's Office	Grant County Sheriff's ATV Patrol	Fund .5 FTE for ATV Patrols on lands open to ATV use in Grant County.	\$50,000.00	\$12,500.00	\$62,500.00
11	County Sheriff's Office	Upper Nestucca OHV Patrol	Fund law enforcement patrols in the Upper Nestucca OHV area in Yamhill County.	\$40,341.60	\$11,200.00	\$51,541.60
Funding not recommended below this point						
12	U.S. Forest Service	Oregon Dunes NRA Sound Testing Equipment	Proposal to purchase 4 B&K sound meters plus software for use in conducting sound checks on the Oregon Dunes NRA.	\$11,250.00	\$3,750.00	\$15,000.00

6b Attachment B Map
April 2022 ATV Grant Requests

Blue = Law Enforcement and EMS
Green = Development and O&M



Oregon Parks and Recreation Commission

April 13, 2022

Agenda Item:	6c	Action
Topic:	ATV Advisory Committee New Member Appointment	
Public Comment Allowed:	Yes	
Presented by:	Daniel Killam, Deputy Director of Administration	

Background:

The All-Terrain Vehicle (ATV) Advisory Committee is made up of 16 voting members and one non-voting member representing a wide variety of agencies and disciplines. OPRD is seeking to appoint two representative positions that will serve on the ATV Advisory Committee: The Oregon Department of Forestry (ODF) and Representative, Department of Human Services (DHS) / Oregon Health Authority (OHA).

The ATV Advisory Committee as directed by ORS 390.565 is tasked with: reviewing accidents and fatalities resulting from ATV recreation, reviewing changes to statutory vehicle classifications as necessary for safety considerations, reviewing safety features of all classes of ATVs and recommending appropriate safety requirements to protect child operators and riders of ATVs.

Recommended Representative of the Oregon Department of Forestry: Reid Brown

Reid Brown has served as an Off-Highway Vehicle (OHV) Program Specialist with the Oregon Department of Forestry on the Tillamook State Forest since 2014 and has recently taken on a new role in the Agency as OHV Program Coordinator and is responsible for leading the planning, management, and development of OHV trail systems on ODF land in the Northwest Oregon Area. Reid graduated with a degree in Recreation Resource Management from Oregon State University and is an avid OHV trail user. He is well respected and supported by the OHV community and extremely familiar with OHV program issues and opportunities in the region. He would bring a great deal of passion and expertise to the ATV Advisory Committee and has the agency's support to represent the Oregon Department of Forestry on the Committee.

Recommended Representative of the Oregon Department of Human Services: Peter Geissert

Peter Geissert is the EMS & Trauma Informatics Research Analyst with the Oregon Public Health Division. Peter holds a Master of Public Health and a Master of Science in Systems Science from Portland State University, and has an academic and professional interest in the intersections of complex systems and health. Peter has been with the Oregon Public Health Division for four years, first with the Oregon Prescription Drug Monitoring Program and more

recently EMS & Trauma Systems program. Peter leads the EMS & Trauma Data Team, supports the Oregon EMS Information System and the Oregon Trauma Registry data systems, and works to improve health outcomes for Oregonians through use and dissemination of EMS and trauma data. Peter will be able to provide valuable ATV EMS and trauma incident data to our ATV Advisory Committee.

Prior Action by Commission: Appointed U.S. Forest Service Representative and Oregon Department of Transportation Representative Positions on June 23, 2021.

Action Requested: Approval to move forward with the appointment of recommended ATV Advisory Committee Members.

Attachments: None

Prepared by: Jeff Trejo

Oregon Parks and Recreation Commission

April 13, 2022

Agenda Item: 7a **Information**

Topic: Heritage Division Update

Presented by: Christine Curran, Deputy Director, Heritage Programs

Important African-American Sites Listed in the National Register of Historic Places

Three properties associated with the history of African Americans in Portland were recently listed in the National Register of Historic Places. The properties were identified and recognized using the document “The African American Resources in Portland from 1851- 1973” Multiple Property Document (MPD), which provides a comprehensive history and tool to recognize these and future African American properties. The most recent listings include:

Dean’s Beauty Salon and Barber Shop

Located in Portland’s Eliot neighborhood on NE Hancock Street, Dean’s Beauty Salon and Barber Shop is the oldest confirmed, continuously-operating Black-owned barber shop or salon in Portland. The building, designed by Benjamin Dean with the assistance of local Portland architect Jack P. Stuhl, was completed and opened for business in 1956. It has transitioned through three generations of Dean family ownership, establishing itself as an important gathering space for the local African American community through to the present day.



Dean's Beauty Salon and Barber Shop

Golden West Hotel – This was the only hotel in Portland with an African American proprietor and the only major hotel to welcome African American guests from 1906 to its closure in 1930, becoming one of the most important community gathering places for African Americans living in or visiting Portland. Located in Portland’s northwest quadrant just blocks from Portland’s Union Station, the hotel serviced mainly Black railway porters, cooks, barbers, waiters, and



Golden West Hotel

travelers who passed through Portland via Union Station, but also by traveling entertainers, athletes, politicians, and activists, all of whom were denied lodging at white-owned establishments, because of their race.

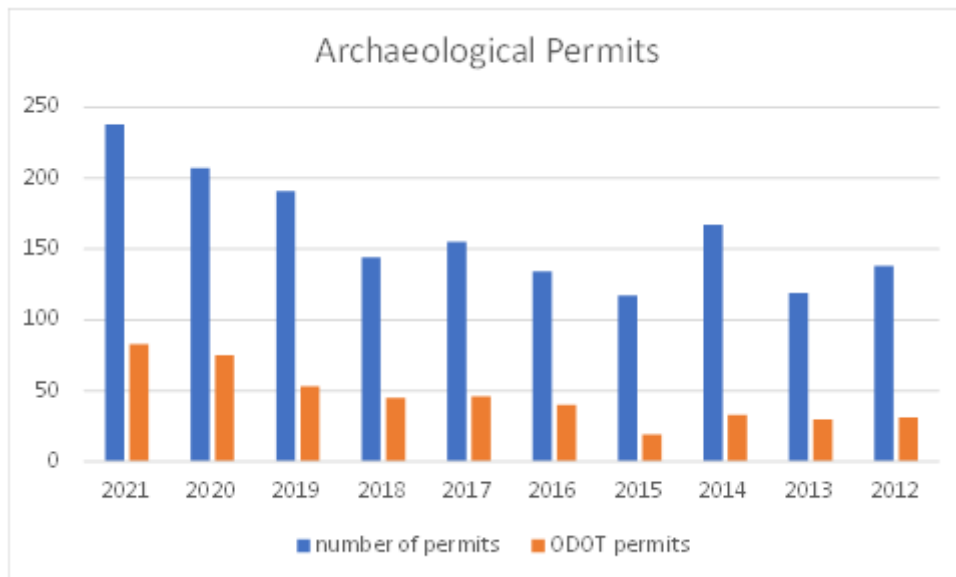
Mt. Olivet Baptist Church – This building was used primarily as a worship space, but is significant for its association with the history of Portland’s African American community. The church was heavily involved in the local African American community as a venue for prominent speakers, choir performances, social events, and meetings of civil rights and community groups from 1923 through 1973. Mt. Olivet Baptist Church is the only church building that remains of the four African American Christian churches that relocated to Lower Albina in the early twentieth century.



Mt. Olivet Baptist Church

State Historic Preservation Office Issues a Record Number of Archaeological Permits

The Oregon State Historic Preservation Office (SHPO) issues archaeological permits for work done on non-federal public and private lands in Oregon on behalf of the Oregon Parks and Recreation Department. Last year the SHPO issued a record 238 archaeological permits for archaeological investigations. The majority of those permits were done in advance of construction and development projects. Roughly 35% of those permits were issued for Oregon Department of Transportation (ODOT) projects.



The permits process ensures that qualified individuals are doing work with input from the tribes, museum, and local planning department along with making sure that projects meet the state standards that SHPO sets.

The permits are related to projects such as Hermiston's teen adventure park, cemetery headstone recovery, Prineville to Reno fiberoptic line, Sitka Sedge dunes restoration, along with several school rehab projects, and numerous Americans with Disability Act projects. The number of archaeological permits issued by the agency has steadily risen over the last few years following a long period of remaining relatively steady. The office expects the number of permits to continue to grow over the next few years, spurred by state and federal investment in public infrastructure and the state's increasing population.

Cottage Grove's Bank Building Rehabilitated Using State and Federal Tax Benefits

Oregon's Special Assessment of Historic Properties program provides a lower, specially assessed taxed value, calculated by the county assessor, to properties listed in the National Register for a ten-year benefit term that allows property owners to invest in their historic buildings. There are currently 318 properties in 20 counties taking advantage of the Special Assessment for Historic Properties program. One of the 15 properties in Lane County is the 1904 Bank Building located at 603-607 E Main Street in Cottage Grove's listed downtown commercial historic district. This over \$2.1 million-dollar rehabilitation is taking advantage of a second and final term of the Special Assessment program, and was also a successful federal 20% Historic Tax Credit project. There are multiple commercial uses on the main floor and six popular apartments on the second floor. Once considered the ugliest building in downtown, one can see from the before and after photos that ugly duckling is no more.



Bank Building Before Rehabilitation



Bank Building After Rehabilitation

Prior Action by Commission: none

Action Requested: none

Attachments: none

Prepared by: Kellie Mingus, Agency Support
Jamie French, Assistant State Archaeologist
Joy Sears, Preservation Specialist
Edited by Ian P. Johnson, Associate Deputy State Historic Preservation Officer

Oregon Parks and Recreation Commission

April 13, 2022

Agenda Item:	9a	Action
Public Comment Allowed:	Yes	
Topic:	Request to Open Rule Making, OAR 736-051-0000 to 0090 Archaeological Permit	
Presented by:	John Pouley, State Archaeologist and Ian Johnson, Associate Deputy State Historic Preservation Officer	

Background: Oregon Administrative Rule (OAR) 736-051-0000 to 0090 defines processes for resolving disputes and applying for State of Oregon Archaeological Excavation permits on non-federal public and private lands. The current OAR was adopted in 1994 and needs updating.

The associated Oregon Revised Statute (ORS) 390.235 (Permits and Conditions for Excavation or Removal of Archaeological or Historical Material) states that a person may not excavate an archaeological site on public or private land without obtaining a permit from the Oregon Parks and Recreation Department (OPRD). It names the State curation facility, requirements for approving other facilities, entities to be consulted with for permit approval, qualifications to apply for a permit, and provides for a dispute resolution process. The State Historic Preservation Office (SHPO) is the OPRD designee.

Outreach for the proposed revision began by addressing roles in statute. According to ORS 390.235(1)(d), rules governing the issuance of permits are to be developed with advice from Oregon Tribes (Tribes) and the Legislative Commission on Indian Services (LCIS). To initiate this process, SHPO sent an email to Tribes and LCIS on August 20, 2021, informing them of the proposed revision along with a request for who should receive correspondence on that topic. With the information received, SHPO sent formal letters on September 13 regarding: the proposed revision, roles in statute to provide advice, and the process moving forward. A copy of the current rule accompanied each with a recommendation to provide initial advice within two months (November 15) in preparation for a discussion forum in December. A reminder email was sent on October 13, followed by another letter on October 26 that included additional details on the schedule moving forward. The letter also acknowledged the larger role of Oregon Tribes in the process, based on authority in statute and through Government-to-Government consultation. The eight-hour rule revision forum with Oregon Tribes and LCIS took place on December 17. A Rule Advisory Committee (RAC) followed in February and early March. The RAC included representation from: Oregon Tribes, LCIS, the University of Oregon Museum of Natural and Cultural History (UOMNCH), Portland State University, the Association of Oregon

Archaeologists (AOA), Association of Oregon Counties, League of Oregon Cities, Oregon Department of Transportation (ODOT), and the United States Army Corps of Engineers (USACE).

Based on all the advice received from Tribes, LCIS, and the RAC, a number of problems exist in the current rule. Primarily, these include: out-of-date processes, references to organizations that now have different names, references to institutions that no longer exist, assigning authority not granted in statute, a need to define terms used in (ORS) 390.235, and a failure to address violations of issued permits.

Feedback for updating out-of-date processes included removing specificity for how information is to be sent (e.g., by fax, or standard mail), to more general references that would allow for any form of submission (e.g., email). Recommendations suggested updating names of institutions in rule that have changed over the years (e.g., Commission on Indian Services [CIS] is now LCIS, and Oregon State Museum of Anthropology [OSMA] is now incorporated into UOMNCH). The 1994 rule also assigns roles to entities not given such authority in statute. For example, the state repository has a role in statute relating to curation and alternate curation facilities, but were given permit review authority in the 1994 rule. The RAC were fine with UOMNCH continuing to review permit applications, and agreed that Department of Justice (DOJ) should weigh in to determine if they can be assigned that role in rule. Tribes, and the RAC recommended removing institutions in rule that no longer exist (e.g., Dispute Resolution Commission). The revised draft addresses each of these changes, with the exception of where DOJ comment is needed.

The most in-depth discussions among Tribes, LCIS, and the RAC involved the need for defining terms relating to what constitutes an Oregon “Qualified Archaeologist” in ORS 390.235. Archaeologists that meet these qualifications are able to apply for State of Oregon Archaeological Excavation Permits.

Among qualifications in ORS 390.235, the RAC focused on definitions. For example, what does it mean to have a post-graduate degree with a “specializing in archaeology” and what is meant by having designed and executed an archaeological study “dealing with archaeological field research”? Members of the RAC admittedly had difficulty separating out the terms used in statute, often addressing issues with one phrase, when a question targeted another. Staff provided initial definitions in the draft rule for “specialization in archaeology” and “dealing with archaeological field research”. Both were updated after discussion with the RAC. There was also discussion on the importance of the intent of the statute. Staff informed the RAC that it is not up to SHPO to periodically change or re-interpret statute, but that they must be consistent with both intent and implementation. The definitions added in the draft rule revision are meant to provide clarity and transparency regarding both intent and implementation.

Tribes and the RAC also discussed the need for a process to address permit compliance and violations. In a DOJ interoffice memo from April 11, 2011, an opinion states that while the SHPO does not have the authority to revoke existing archaeological permits, it does have the authority to deny future permit issuance based on permit violations. While SHPO has never denied permits based on prior violations, it is clear from discussions that a need exists. The rule

needs to address this issue by holding applicants, or their firms/institutions, accountable for complying with terms and conditions of State of Oregon Archaeological Excavation Permits.

The change in the draft rule revision with feedback from the RAC proposes to define instances where an application reviewer may object to the issuance of a permit based on a prior violation, consistent with the DOJ memo. Violations may involve both a failure to comply with the terms, or conditions of an issued permit. The draft rule proposes how this is addressed through the dispute resolution process, and that it will only be based on violations from the point the revised rule is adopted going forward. Addressing it through the dispute resolution process will allow all parties an opportunity to achieve and promote compliance, and hopefully avoid future violations.

Prior Action by Commission: None.

Action Requested: Staff recommends opening rulemaking governing the issuance of archaeological permits 736-051-0000 to 736-051-0090. Updating processes and defining terms from the 1994 rule will provide much needed added clarity and transparency.

Attachments:

Attachment A: Clean Copy of Proposed Rules

Attachment B: Clean Copy of Current Rules

Attachment C: Marked Copy of Current Rules

Prepared by: John Pouley, Oregon State Archaeologist

9a Attachment A: Clean Copy of Proposed Rules

[Parks and Recreation Department](#)

[Chapter 736](#)

Division 51

ARCHAEOLOGICAL PERMITS

[736-051-0000](#)

Dispute Resolution Process

(1) Oregon Administrative Rules (OAR) 736-051-0000 through 736-051-0050 establish procedures the Oregon Parks and Recreation Department shall use in resolving a dispute over:

(a) The issuance of an archaeological permit pursuant to Oregon Revised Statute (ORS) 390.235;

(b) Curation facilities for archaeological objects uncovered pursuant to a permit issued under ORS 390.235;

(c) The disposition of human remains or funerary objects as identified in ORS 97.750.

(2) Throughout the dispute resolution process, the location of archaeological sites and objects will be kept from public disclosure pursuant to ORS 192.345 and include provisions for protecting confidential information.

[736-051-0010](#)

Dispute Resolution Definitions

As used in OAR 736-051-0020 through 736-051-0050, unless the context requires otherwise:

(1) "Alternate Curatorial Facility" means the institution approved by the University of Oregon Museum of Natural and Cultural History (UOMNCH) incorporating the Oregon State Museum of Anthropology (OSMA), and appropriate tribes, meeting standards in ORS 390.235;

(a) Where materials pursuant to ORS 390.235(3)(b) are made available for nondestructive research by scholars;

(i) Where "Scholars" means but is not limited to: tribal members, traditional cultural practitioners, traditional cultural authorities, archaeologists, academic professionals, and students.

(2) "Applicant" means the qualified archaeologist (as defined in ORS 390.235) and the institution/company they represent responsible for the terms and any conditions of an archaeological permit pursuant to ORS 390.235.

(3) "Appropriate Tribe" means the Indian tribe or tribes designated by the Legislative Commission on Indian Services (LCIS).

(4) "Arbitration" means a process whereby a neutral third party or panel considers the facts and arguments presented by disputing parties and renders a decision.

(5) "Archaeological Object" has the meaning given that term in ORS 358.905.

- (6) "Archaeological Permit" means the permit issued under ORS 390.235.
- (7) "Archaeological Site" has the meaning in ORS 358.905.
- (8) "Burial" has the meaning given that term in ORS 358.905.
- (9) "Conditions" means any additional permit terms proposed for property access, research, notifications, field methods, analyses, monitoring, curation, and reporting, by an entity with approval authority.
- (10) "Entity with Approval Authority" means, as appropriate to the context, one or more of the following: The Oregon Parks and Recreation Department , the private landowner as applicable or land managing agency, the Legislative Commission on Indian Services (LCIS) and the most appropriate tribe(s).
- (11) "Funerary Objects" have the meanings given that term in ORS 358.905.
- (12) "Human Remains" has the meaning given that term in ORS 358.905.
- (13) "Indian Tribe" has the meaning given in ORS 97.740.
- (14) "Mediation" means a process in which a third party assists and facilitates two or more parties to a dispute in reaching a mutually acceptable resolution of the dispute.
- (15) "Negotiation" means an informal process by which an attempt is made by disputing parties to resolve the dispute without the need for mediation or arbitration.
- (16) "Object of Cultural Patrimony" has the meaning given that term in ORS 358.905
- (17) "Qualified Archaeologist" means a person that meets ORS 390.235 education and experience criteria related to archaeological collection and excavation, as support of their ability to comply with terms and conditions of a State of Oregon issued archaeological permit.
- (18) "Sacred object" has the meaning given that term in ORS 358.905.
- (19) "State Designated Curatorial Facility" means the UOMNCH incorporating the OSMA.

[736-051-0020](#)

Disputes Covered by the Dispute Resolution Process

These rules cover disputes among or between persons or entities that have statutory authority to: approve or object to the issuance of an archaeological permit, approve or object to a proposed curatorial facility, approve or object to the disposition of human remains, funerary objects, sacred objects, or objects of cultural patrimony; apply for an archaeological permit.

- (1) After a permit application is sent out for review, including after its issuance, disputes may arise among or between entities with approval authority and applicants over any proposed terms, conditions, or objections where:
 - (a) An entity with approval authority over an application for a permit objects to its issuance;
 - (i) Based on any proposed terms or conditions.

(ii) Based on any prior failure of the applicant to comply with terms or conditions of any previously issued permit, from the time this rule is enacted.

(iii) Based on any unresolved comments to a report submitted for a previously issued permit.

(A) Where the entity with approval authority is able to include documentation supporting comments were requested and not addressed.

(iv) Based on a prior violation of ORS 390.235 by the applicant for failing to obtain a permit, from the time this rule is enacted.

(b) The applicant disagrees with any proposed terms or conditions of a permit;

(c) The applicant disagrees with an objection to their permit application.

(2) Disputes may arise over the selection of curatorial facilities for archaeological objects uncovered on public lands where:

(a) An entity that has approval authority over the choice of an alternate curatorial facility withholds that approval;

(b) The archaeological permit applicant disagrees with the choice of an alternate curatorial facility as made by an entity with approval authority.

(3) Disputes may arise over the disposition of human remains funerary objects, sacred objects, or objects of cultural patrimony as described in ORS 97.740.

[736-051-0030](#)

Informal Dispute Resolution (Negotiation)

(1) If the permit applicant or an entity with approval authority over an application for a permit objects to the approval or objection of a permit or any of its terms or conditions, they shall notify the State Historic Preservation Office (SHPO) in writing.

(2) The SHPO shall initiate an informal process by which the disputing parties shall attempt to reach agreement. By mutual agreement, the disputing parties may include the SHPO or other third parties in this process, but they shall not be compensated. The informal dispute resolution process shall be completed within 60 days.

(3) At any time a disputing party can terminate the informal dispute resolution process and submit the dispute to mediation or withdraw the dispute by notifying all parties in writing.

[736-051-0040](#)

Mediation

(1) The entities with approval authority shall compile and maintain a list of potential mediators.

(2) Within ten calendar days of receipt of a written request to mediate, the SHPO shall provide the disputing parties with a list of at least three potential mediators, including written credentials of each one.

(3) Within ten calendar days of receipt of the list of potential mediators, each disputing party shall notify the SHPO if one or more of the mediators would be acceptable.

(4) Disputing parties may interview potential mediators. All parties shall agree on the choice of mediator within five working days after the list of acceptable mediators is forwarded to SHPO.

(5) The mediator shall assist the disputing parties in preparing for mediation. Such preparations shall include:

(a) A statement of the issues to be mediated;

(b) A list of the parties who will participate in the mediation;

(c) An estimated completion date for the mediation process. By mutual consent, deadlines may be established for ending or continuing the mediation process;

(d) A statement of what shall constitute agreement. An understanding of what constitutes agreement shall include adequate time for each disputing party's decision-making body to ratify a tentative agreement reached by the mediator and the disputing parties;

(e) Throughout the dispute resolution process, the location of archaeological sites and objects will be kept from public disclosure pursuant to ORS 192.345, and include provisions for protecting confidential information about traditional or sacred places and practices, or other sensitive information associated with archaeological sites and objects;

(f) Provisions for payment of the mediator's services, if the services are not voluntary;

(g) Any other procedural matters the disputing parties determine need resolution before mediation begins on the substantive issues.

[736-051-0050](#)

Arbitration

(1) If the mediation does not yield a result satisfactory to all parties, the disputing parties shall notify the SHPO in writing, and the dispute shall proceed to arbitration.

(2) The SHPO shall notify each of the following of the need to designate one representative to serve on an arbitration panel:

(a) The SHPO;

(b) The LCIS;

(c) The UOMNCH;

(d) The governing bodies of the federally-recognized Indian tribes;

(3) All panel members shall be designated within ten calendar days of receipt of SHPO's notification.

(4) By consensus, the panel shall:

(a) Choose a chair who shall be responsible for scheduling arbitration sessions, notifying all parties with standing in the dispute, and convening the arbitration session; and

(b) Establish the procedural framework for the arbitration.

(5) The issues to be arbitrated are limited to those which could not be resolved by the mediation process.

(6) Any party that declines to participate in the mediation or arbitration process waives its right to approve the permit application, or to set conditions on the approval of the permit application.

[736-051-0060](#)

Application for Archaeological Permit

(1) OAR 736-051-0060 through 736-051-0090 establish procedures the Director of the Parks and Recreation Department, or their designee, shall use in issuing archaeological permits on public and private lands.

(2) Per ORS 192.345, information pertaining to the location of archaeological objects and sites are confidential and exempt from public disclosure. Please consider ethical responsibilities towards confidential information about traditional or sacred places and practices, or other sensitive information associated with archaeological sites and objects. Requirements outside those identified in this rule from local processes or other rules that contradict any of the roles and responsibilities herein, are not enforceable under this process in part due to this exemption.

[736-051-0070](#)

Archaeological Permits: Definitions

As used in OAR 736-051-0080 through 736-051-0090 unless the context requires otherwise:

(1) "Alter" means to disturb or remove any part of an archaeological site.

(2) "Applicant" means the qualified archaeologist (as defined in ORS 390.235) and the institution/company they represent responsible for the terms and any conditions of an archaeological permit pursuant to ORS 390.235.

(3) "Appropriate Tribe" means the Indian tribe or tribes designated by the LCIS.

(4) "Archaeological Excavation" requires a permit on non-federal public and private lands and means to apply archaeological methods to break the ground surface to remove any buried or embedded archaeological object, feature, or non-archaeological material for the purposes of performing archaeological research.

(5) "Archaeological Object" has the meaning in ORS 358.905.

(6) "Archaeological Permit" means the permit issued under ORS 390.235.

(7) "Archaeological Site" has the meaning in ORS 358.905.

(8) "Burial" has the meaning in ORS 358.905.

(9) "Conditions" means any additional permit terms proposed for property access, research, notifications, field methods, analyses, monitoring, curation, and reporting, by an entity with approval authority.

(10) "Curatorial Facility" means either:

(a) The "State Designated Curatorial Facility", which is the UOMNCH; or

(b) "Alternate Curatorial Facility" which means the institution approved by UOMNCH and appropriate tribes meeting standards in ORS 390.235.

(11) "Destroy" means to injure in entirety.

(12) "Entity with Approval Authority" means, as appropriate to the context, one or more of the following: The Oregon Parks and Recreation Department, the landowner or land managing agency, the Legislative Commission on Indian Services and the most appropriate tribe(s).

(13) "Exploratory Excavation" is a type of archaeological excavation inventory method for identifying the presence or absence of a buried archaeological object or site, not visible from the surface, requiring a permit on non-federal public lands.

(14) "Funerary object" has the meaning in ORS 358.905.

(15) Historic Cemetery has the meaning given in ORS 97.772.

(16) "Human Remains" has the meaning given that term in ORS 358.905.

(17) "Injure" means to inflict damage of any kind.

(18) "Object of Cultural Patrimony" has the meaning given that term in ORS 358.905

(19) "Person" means an individual, a partnership, a public or private corporation, an unincorporated association or any other legal entity. "Person" includes any subsidiary subcontractor, parent company or other affiliate. Business entities are considered affiliates when one controls or has the power to control the other or when both are controlled directly or indirectly by a third person.

(20) "Private Lands" means lands within the State of Oregon owned by a person, except "Private lands" does not include federal lands or nonfederal public lands, or any lands the title to which is:

(a) Held in trust by the United States for the benefit of any Indian tribe or individual;

(b) Held by an Indian tribe or individual subject to a restriction by the United States against alienation.

(21) "Public Lands" means any lands owned by the State of Oregon, a city, county, district or municipal or public corporation in Oregon.

(22) "Qualified Archaeologist" means a person that meets the ORS 390.235 education, fieldwork, laboratory or curation, and reporting experience specific to archaeological excavation and analysis, supporting their ability to comply with any terms and conditions of a State of Oregon issued archaeological permit. The "Qualified Archaeologist" must be able to demonstrate that they:

(a) Possess a post-graduate degree in archaeology, anthropology, history, classics or other germane discipline with a specialization in archaeology, or a documented equivalency of such a degree;

(i) Where "Post-Graduate Degree" means a Master of Arts (MA), Master of Science (MS), or Doctor of Philosophy (PhD) degree from an accredited member of a state system of higher education; or from an

accredited academic or higher education institution, through an accredited program in archaeology, anthropology, history, classics or other germane discipline with a specialization in archaeology.

(ii) Where “specialization in archaeology” means the program, coursework, and graduate faculty adhere to departmental requirements for the equivalency of a post-graduate degree in the discipline of archaeology, and the applicable curriculum was appropriately accredited by an accrediting body recognized by the Secretary of the U.S. Department of Education.

(iii) Where “archaeology” means the study of the past based on: archaeological method and theory, the analysis or patterning of any surviving archaeological objects, sites, or features, anthropogenic soils, ethnographic, historic, or oral traditions, and any associated contextual relationships documenting the use of a place or places by people individually or collectively for any amount of time. Archaeology is a subfield of Anthropology.

(iv) Where “documented equivalency” means an official record of a post-graduate degree from a foreign educational institution deemed equivalent to that gained in conventional/accredited U.S. education programs comparable to a MA, MS, or PhD, with a specialization in archaeology.

(b) Have twelve weeks (480 hours) of supervised experience in basic archaeological field research, including both survey and excavation, and four weeks (160 hours) of archaeological laboratory analysis or curating;

(i) Where supervised archaeological field research means at the professional level, as opposed to that obtained as a volunteer, or for undergraduate or graduate school credit.

(ii) Where 480 hours of both survey and excavation means a minimum of 240 hours each.

(c) Have designed and executed an archaeological study, as evidenced by a MA or MS thesis, PhD dissertation, peer reviewed publication, or report equivalent in scope and quality dealing with archaeological field research, of which they are the sole, or primary/lead author.

(i) Where “archaeological field research” means hands-on analysis of a professionally excavated archaeological collection or a portion of a collection from data recovery or test excavations in an archaeological site prior to or after curation at an Oregon “State Designated”, “Alternate Curatorial Facility”, or federally approved facility.

(A) Where the collection consists of archaeological objects and associated data, such as excavation level forms, field maps, catalogs of archaeological objects, archaeological object inventories, collected samples, and photographs, conveying overall provenience.

(ii) Where being the “sole author” unequivocally demonstrates the “Qualified Archaeologist” designed and executed the archaeological study.

(iii) Where a primary/lead author can clearly demonstrate their specific contribution evidencing they were principally responsible for designing and executing the archaeological study.

(23) “Recognized Educational Institution” means:

(A) An accredited member of a state system of higher education; or

(B) An accredited academic or higher education institution with an accredited curriculum in anthropology specializing in archaeology, or related field.

(24) “Recognized Scientific Institution” means a chartered museum, organization, or society with a commitment to the scientific method.

(25) “Remove” means taking any material, whether archaeological or not, embedded in or on the surface, or under the surface of the ground.

(26) “Sacred object” has the meaning given that term in ORS 358.905.

(27) “Tribal Coordination” means a bilateral process of discussion, cooperation, and decision-making about the proposed investigation to assist with the development of the archaeological permit research design.

[736-051-0080](#)

Archaeological Permits: Process for Applying for an Archaeological Permit on Public Lands

(1) A person may not excavate or alter an archaeological site on public lands, make an exploratory excavation on public lands to determine the presence of an archaeological site, or remove from public lands any material of an archaeological, historical, prehistorical, or anthropological nature without first obtaining a permit issued by the State Parks and Recreation Department.

(2) An archaeological permit may be issued to:

(a) A qualified archaeologist in the employ of a person conducting an excavation, examination or gathering of archaeological objects for the benefits of a recognized scientific or educational institution with a view to promoting the knowledge of archaeology or anthropology;

(b) A qualified archaeologist to salvage archaeological objects from unavoidable destruction; or

(c) A qualified archaeologist sponsored by a recognized institution of higher learning, private firm or an Indian tribe as defined in ORS 97.740.

(3) A qualified archaeologist who desires an archaeological permit pursuant to ORS 390.235 must submit an application to the Oregon Parks and Recreation Director or their designee. The application must be complete and include:

(a) A map, such as a USGS 7.5 minute topographic at 1:24,000 scale, that enables the landowner or land managing agency, SHPO, LCIS, and the appropriate Indian tribe(s) to clearly understand the exact location of the archaeological investigation;

(b) A research design that explicitly develops the rationale behind the proposed archaeological investigation. The research design supports the applicant’s understanding of appropriate archaeological methods, theoretical paradigms, analyses, curation, laws, anticipated results, and an understanding of the context of place through time. Tribal coordination will assist in the development of the research design which includes background information from any pertinent publications, gray literature, informants, tribes, ethnographies, historic properties of religious and cultural significance, traditional cultural properties, documented archaeological objects and sites, historic documents or National Register bulletins relevant to the objectives of the archaeological investigation and its location. The

research design includes appropriate field and analytical methods to achieve any research objectives based on informed expectations, and is part of the terms of an issued permit;

- (c) The name and current contact information of the landowner or land managing agency;
- (d) The State designated or approved alternate curation facility for archaeological objects, field forms, photographs, and other attendant data from the proposed archaeological investigation;
- (e) A list of any tribes engaged in tribal coordination prior to submitting the archaeological permit application;
- (f) A statement from the applicant disclosing any prior state or federal archaeological law violations;
- (g) A list of all open archaeological permits issued to the applicant still pending;
- (h) A list of any outstanding archaeological permits from the past ten years;
- (i) As applicable, a contingency plan for any unanticipated discoveries of archaeological objects or sites during any stage of a project or undertaking.

(4) Upon receipt of a complete application, the Director or their designee, shall determine whether public lands, as defined in OAR 736-051-0070(16), are involved.

(5) In consultation with the LCIS, the SHPO shall identify the appropriate tribe(s) with review authority over the archaeological permit application.

(a) In the event LCIS is not able to respond within 48 hours, SHPO will designate the most appropriate tribes based on past permits issued in the vicinity.

(6) The SHPO shall provide the complete application to entities with approval authority for review.

(a) Entities with approval authority have 30 calendar days from the date the application is sent to respond with their approval, approval with conditions, or objection. No response within 30-days means no conditions or objections were submitted to SHPO. SHPO shall send copies of all responses to the applicant;

(b) Before issuing a permit, SHPO shall review any conditions to be added to the issued permit, or objections received from entities with review authority;

(c) At the request of any tribe with review authority over a permit application, the applicant shall continue to coordinate with them during the 30-day review period. Tribal coordination may include, but is not limited to a discussion of the proposed archaeological investigations, research design, permit terms or conditions, reporting, tribal monitoring of the permit work, curation, inadvertent discovery contingency plans during the archaeological investigations, or any associated project design or development.

(7) Any person or entity who post SHPO and appropriate tribe clearance review discovers an archaeological object, site, human remains, burial, historic cemetery, funerary object, sacred object, or object of cultural patrimony, may request an expedited 48-hour permit review. The request may be granted if the Director or their designee, in coordination with entities with approval authority determine the 30-day permit review period of this rule will result in an undue risk to public health, life or safety, or

an undue threat to the archaeological object, site, human remains, burial, funerary object, sacred object, or object of cultural patrimony. Examples of situations creating undue risk to public health, life or safety include: hazardous material spills, breach of regional flood control facilities, and pipeline failures. Examples of creating undue threat to an archaeological object, site, human remains, burial, historic cemetery, funerary object, sacred object, or object of cultural patrimony include: erosion, susceptibility to theft, prolonged exposure to the elements, and proposed construction related activities.

(a) If the Director or their designee determines that an expedited review request is warranted, the following procedures apply:

(i) The applicant shall submit an expedited permit application for the Director or their designee to send out to entities with approval authority for review;

(ii) During the following 48 hours (excluding Saturday, Sunday, and any State, Federal, or Tribal holidays), entities with approval authority may respond to the permit application with their approval, approval with conditions, or object. No response within 48 hours means the entity with approval authority did not condition or object. If any entity with approval authority objects in writing to an expedited review, the director or their designee will not proceed with the expedited review;

(iii) The applicant may proceed when the permit is issued.

(b) For the purposes of this section, excluding burials, funerary objects, sacred objects, or any objects of cultural patrimony, expedited 48-hour permit reviews are only available if prior review by the most appropriate tribes, and SHPO has occurred.

(8) After considering the application, maps, research design, and recommendations for conditions, or objections received by entities with approval authority during consultation, the Director or their designee may issue the permit without conditions, issue the permit with conditions, or deny the permit. The permit does not relieve the applicant of compliance with other federal or state requirements, including, but not limited to, ORS 97.740 to 97.760, 358.905 to 358.961, and 390.235.

(9) The applicant and entities with review authority will receive a copy of the approved signed permit from the Director or their designee.

(10) All work under a permit issued by the Department shall be put on hold in the event human remains, funerary objects, sacred objects, or objects of cultural patrimony are encountered during the investigation, including post-fieldwork curation processing. For such discoveries, the permit holder must contact the LCIS, appropriate tribes, Oregon State Police, and SHPO.

(11) Archaeological permits may be amended according to the process developed by the Director or their designee in coordination with Oregon Tribes.

[736-051-0090](#)

Archaeological Permits: Process for Applying for an Archaeological Permit on Private Lands

(1) A person may not excavate, injure, destroy, or alter an archeological site or object, or remove an archeological object from private lands in Oregon unless that activity is authorized by a permit issued pursuant to this rule:

(a) Permits on private lands will not be required for exploratory excavation to determine the presence of an archaeological site;

(b) If an archaeological site is identified, all excavation must stop and the site will be recorded on a State of Oregon Archaeological Site Record and submitted to SHPO.

(i) If additional excavation is necessary to establish the boundary of the site, complete the exploratory probe, or conduct further archaeological investigations of the site, it will require a permit issued under this rule.

(2) A person who desires an archaeological permit on private lands pursuant to ORS 358.920(1)(a) and 390.235 must submit a request to the Director or their designee:

(a) The application must be complete and meet the requirements of the public lands rule section OAR 736-051-0080(3). In addition, an application for an archaeological permit on private lands must be accompanied by a copy of the landowner's written permission pursuant to ORS 358.920(5), and a written statement concerning the disposition of any recovered archaeological objects not covered by 358.920(4)(b);

(b) The archaeological permit process for private lands includes the same processes as those found in OAR 736-051-0080 (2-11) relating to permits on public lands.

(3) Unless authorized by ORS 97.750, an archaeological permit on private lands shall not be issued for burials, human remains, funerary objects, sacred objects, or objects of cultural patrimony.

(4) Disputes shall be resolved pursuant to OAR 736-051-0000 through 736-051-0050.

(5) Archaeological permits may be amended according to the process developed by the Director or their designee in coordination with Oregon Tribes.

9a Attachment B: Clean Copy of Current Rules

[Parks and Recreation Department](#)

[Chapter 736](#)

Division 51

ARCHAEOLOGICAL PERMITS

[736-051-0000](#)

Dispute Resolution Process

(1) OAR 736-051-0000 through 736-041-0050 establish procedures the Oregon Parks and Recreation Department shall use in resolving a dispute over:

(a) The issuance of an archaeological permit pursuant to ORS 390.235;

(b) Curation facilities for archaeological objects uncovered pursuant to a permit issued under ORS 390.235;

(c) The disposition of human remains, associated material objects, or funerary objects as identified in ORS 97.750.

(2) It is the policy of the Oregon Parks and Recreation Department and the Oregon State Historic Preservation Office to use best efforts to protect the confidentiality of information pertaining to the location of archaeological sites that may be disclosed during the dispute resolution process.

Statutory/Other Authority: ORS 390.124 & 390.240

Statutes/Other Implemented: ORS 390.124 & 390.240

History:

PR 6-1994, f. & cert. ef. 4-22-94

[736-051-0010](#)

Definitions

As used in OAR 736-051-0000 through 736-051-0050, unless the context requires otherwise:

(1) "Arbitration" means a process whereby a neutral third party or panel considers the facts and arguments presented by disputing parties and renders a decision.

(2) "Mediation" means a process in which a third party assists and facilitates two or more parties to a dispute in reaching a mutually acceptable resolution of the dispute.

(3) "Negotiation" means an informal process by which an attempt is made by disputing parties to resolve the dispute without the need for mediation or arbitration.

(4) "Entity with Approval Authority" means, as appropriate to the context, one or more of the following: The Oregon Parks and Recreation Department, an appropriate Indian tribe, the Oregon State Museum of Anthropology, the state agency or local governing body charged with management of the public land in question.

(5) "Applicant" means a person who is applying for an archaeological permit pursuant to ORS 390.235.

- (6) "Recognized Curatorial Facility" means the Oregon State Museum of Anthropology (OSMA).
- (7) "Alternate Curatorial Facility" can mean one or more of the following:
- (a) The scientific, educational, or Indian tribal institution for whose benefit a permit was issued under ORS 390.905 et seq., if approved by OSMA with the concurrence of the appropriate Indian tribe;
 - (b) An educational facility other than the institution collecting the material, provided the action is approved by the State Board of Higher Education with the concurrence of the appropriate Indian tribe;
 - (c) An educational facility or firm approved by OSMA with the concurrence of the appropriate Indian tribe, and with the requirement that the facility provide an inventory of material to OSMA within six months of collection.
- (8) "Human Remains" has the meaning given that term in ORS 358.905.
- (9) "Funerary Objects" have the meanings given that term in ORS 358.905.
- (10) "Associated Material Objects" has the same meaning as section (9) of this rule.
- (11) "Burial Goods" as found in ORS 309.240(1)(b), has the same meaning as section (9) of this rule.
- (12) "Sacred Object" has the meaning given that term in ORS 358.905.
- (13) "Qualified Archaeologist" has the meaning given that term in ORS 390.235.
- (14) "Professional Archaeologist" has the meaning given that term in ORS 97.740(6).
- (15) "Archaeological Permit" means the permit issued under ORS 390.235.
- (16) "Archaeological Object" has the meaning given that term in ORS 358.905.
- (17) "Indian Tribe" has the meaning given in ORS 97.740(4).
- (18) "Appropriate Indian Tribe" means the Indian tribe designated by the Commission on Indian Services as having the greatest interest in the subject matter relating to the dispute.

Statutory/Other Authority: ORS 390.124 & 390.240

Statutes/Other Implemented: ORS 390.124 & 390.240

History:

PR 6-1994, f. & cert. ef. 4-22-94

[736-051-0020](#)

Disputes Covered by the Dispute Resolution Process

These rules cover disputes among or between: Entities that have statutory authority to approve or disapprove an archaeological permit, or to approve or disapprove a curatorial facility to house archaeological objects, or to approve or disapprove the disposition of human remains, associated material objects, or funerary objects; and applicants for such permits, facilities or dispositions:

- (1) Disputes may arise among or between approving entities and applicants over the terms, conditions, provisions or for approval or disapproval of an archaeological permit where:

- (a) An entity with approval authority over an application for a permit withholds that approval;
- (b) An entity with approval authority disagrees over the terms, conditions or provisions of the permit;
- (c) The applicant disagrees with the terms, conditions or provisions of the permit as established by an entity with approval authority.

(2) Disputes may arise over the selection of curatorial facilities to house archaeological objects uncovered on public lands where:

- (a) An entity that has approval authority over the choice of a recognized or alternate curatorial facility withholds that approval;
- (b) The applicant disagrees with the choice of a recognized or alternate curatorial facility as made by an entity with approval authority.

(3) Disputes may arise over the disposition of human skeletal remains, associated material objects, or funerary objects as described in ORS 97.750 where:

- (a) The appropriate Indian tribe has denied consent within 30 days of the mailing of the request for consent;
- (b) The professional archaeologist proposing the excavation (or the company or agency the archaeologist represents), disagrees with the terms, conditions or provisions of the Indian tribe's written consent, if any.

Statutory/Other Authority: ORS 390.124 & 390.240
Statutes/Other Implemented: ORS 97.750 & 390.235
History:
PR 6-1994, f. & cert. ef. 4-22-94

[736-051-0030](#)

Informal Dispute Resolution (Negotiation)

(1) If the permit applicant or an entity with approval authority over an application for a permit objects to the approval or disapproval of a permit or any of its terms, conditions or provisions, it shall notify the State Historic Preservation Office (SHPO) in writing.

(2) The SHPO shall initiate an informal process by which the disputing parties shall attempt to reach agreement. By mutual agreement, the disputing parties may include the SHPO or other third parties in this process, but they shall not be compensated. It is recommended that the informal dispute resolution process be completed within 30 days.

(3) At any time, a disputing party can terminate the informal dispute resolution process and submit the dispute to mediation.

Statutory/Other Authority: ORS 390.124 & 390.240
Statutes/Other Implemented: ORS 390.240
History:
PR 6-1994, f. & cert. ef. 4-22-94

[736-051-0040](#)

Mediation

- (1) The entities with approval authority in consultation with the staff of the Dispute Resolution Commission (DRC), shall compile and maintain a list of potential mediators.
- (2) Within ten calendar days of receipt of a written request to mediate, the SHPO shall provide the disputing parties with a list of at least three potential mediators, including written credentials of each one.
- (3) Within ten calendar days of receipt of the list of potential mediators, each disputing party shall notify the SHPO if one or more of the mediators would be acceptable.
- (4) Disputing parties may jointly interview potential mediators. All parties shall agree on the choice of mediator within five working days after the list of acceptable mediators is forwarded to SHPO.
- (5) The mediator shall assist the disputing parties in preparing for the negotiation. Such preparations shall include:
 - (a) A statement of the issues to be mediated;
 - (b) A list of the parties who will participate in the mediation;
 - (c) An estimated completion date for the mediation process. By mutual consent, deadlines may be established for ending or continuing the mediation process;
 - (d) A statement of what shall constitute agreement. An understanding of what constitutes agreement shall include adequate time for each disputing party's decision-making body to ratify any tentative agreement reached by the mediator and the disputing parties;
 - (e) Provisions for protecting confidential information about site location, traditional or sacred practices, or other sensitive information associated with archaeological sites and objects;
 - (f) Provisions for payment of the mediator's services, if the services are not voluntary;
 - (g) Any other procedural matters the disputing parties determine need resolution before mediation begins on the substantive issues.

Statutory/Other Authority: ORS 390.124 & 390.240

Statutes/Other Implemented: ORS 390.240

History:

PR 6-1994, f. & cert. ef. 4-22-94

[736-051-0050](#)

Arbitration

- (1) If the mediation does not yield a result satisfactory to all parties, the disputing parties shall notify the SHPO in writing, and the dispute shall proceed to arbitration.
- (2) The SHPO shall notify each of the following of the need to designate one representative to serve on an arbitration panel:

- (a) The State Historic Preservation Office;
 - (b) The Commission on Indian Services;
 - (c) The Oregon State Museum of Anthropology;
 - (d) The governing bodies of the federally-recognized Indian tribes;
 - (e) The Dispute Resolution Commission.
- (3) All panel members shall be designated within ten calendar days of receipt of SHPO's notification.
- (4) By consensus, the panel shall:
- (a) Choose a chair who shall be responsible for scheduling arbitration sessions, notifying all parties with standing in the dispute, and convening the arbitration session; and
 - (b) Establish the procedural framework for the arbitration.
- (5) The issues to be arbitrated are limited to those which could not be resolved by the mediation process.
- (6) Any party that declines to participate in the mediation or arbitration process waives its right to approve the permit application, or to set terms, conditions or provisions on the approval of the permit application.
- (7) The decision of the arbitration panel may be appealed pursuant to ORS 36.365.

Statutory/Other Authority: ORS 390.124 & 390.240

Statutes/Other Implemented: ORS 390.240

History:

PR 6-1994, f. & cert. ef. 4-22-94

[736-051-0060](#)

Application for Archaeological Permit

- (1) OAR 736-051-0060 through 736-051-0090 establish procedures the Director of the Parks and Recreation Department shall use in issuing archaeological permits on public and private lands.
- (2) It is the policy of the Oregon Parks and Recreation Department (OPRD) and the Oregon State Historic Preservation Office (SHPO) that information pertaining to the location of archaeological sites, cairns, burials, human remains, funerary objects, sacred objects or objects of cultural patrimony is confidential information that will be disclosed only as required by law.

Statutory/Other Authority: ORS 390.235(1)(d)

Statutes/Other Implemented: ORS 390.235

History:

PR 1-1995, f. & cert. ef. 1-3-95

[736-051-0070](#)

Archaeological Permits: Definitions

As used in OAR 736-051-0060 through 736-051-0090 unless the context requires otherwise:

- (1) "Alter" means to disturb or remove any part of an archaeological site or a feature within an archaeological site.
- (2) "Applicant" means the person who is applying for an archeological permit pursuant to ORS 390.235.
- (3) "Appropriate Indian Tribe" means the Indian tribe designated by the Commission on Indian Services as having the greatest interest in the permit application.
- (4) "Archaeological Site" means a geographic locality in Oregon, including but not limited to submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains archaeological objects and the contextual associations of the objects with:
 - (a) Each other; or
 - (b) Biotic or geological remains or deposits. Examples of archaeological sites include but are not limited to shipwrecks, lithic quarries, house pit villages, camps, burials, lithic scatters, homesteads and townsites.
- (5) "Archaeological Object" means an object that:
 - (a) Is at least 75 years old;
 - (b) Is part of the physical record of an indigenous or other culture found in the state or waters of the state; and
 - (c) Is material remains of past human life or activity that are of archaeological significance including, but not limited to, monuments, symbols, tools, facilities, technological by-products and dietary by-products.
- (6) "Archaeological Permit" means the permit issued under ORS 390.235.
- (7) "Artifact" means the same as "Archaeological Object."
- (8) "Associated Material Objects" means the same as "Funerary Object."
- (9) "Burial Goods," as found in ORS 390.240(1)(b), means the same as "Funerary Objects."
- (10) "Curatorial Facility" means either a:
 - (a) "Recognized" curatorial facility, which is the Oregon State Museum of Anthropology (OSMA); or
 - (b) "Alternate" curatorial facility, which is defined as follows:
 - (A) The scientific, educational, or Indian tribal institution for whose benefit a permit was issued, if approved by OSMA with the concurrence of the appropriate Indian tribe; or
 - (B) An educational facility other than the institution collecting the material, provided the action is approved by the State Board of Higher Education with the concurrence of the appropriate Indian tribe; or

(C) An educational facility or firm approved by OSMA with the concurrence of the appropriate Indian tribe, and with the requirement that the facility provide a material inventory to OSMA within six months of collection.

(11) "Excavate" means to break the ground surface to remove any artifact or to remove an embedded artifact, feature or non-artifactual material in an archaeological site for the purposes of performing anthropological research.

(12) "Exploratory Excavation" means digging into or otherwise disturbing the earth to determine whether or not an archaeological site exists at the excavation.

(13) "Funerary Objects" means any artifacts or objects that, as part of a death rite or ceremony of a culture, are reasonably believed to have been placed with the individual remains either at the time of death or later.

(14) "Human Remains" means the physical remains of a human body, following death, including, but not limited to bones, teeth, hair, ashes or mummified or otherwise preserved soft tissues of an individual.

(15) "Object of Cultural Patrimony" means:

(a) An object having ongoing historical, traditional or cultural importance central to the native Indian group or culture itself, rather than property owned by an individual native Indian, and which, therefore, cannot be alienated, appropriated or conveyed by an individual regardless of whether or not the individual is a member of the Indian tribe. The object shall have been considered inalienable by the native Indian group at the time the object was separated from such group;

(b) Does not mean unassociated arrowheads, baskets or stone tools for portions of arrowheads, baskets or stone tools.

(16) "Person" means an individual, a partnership, a public or private corporation, an unincorporated association or any other legal entity. "Person" includes any subsidiary subcontractor, parent company or other affiliate. Business entities are considered affiliates when one controls or has the power to control the other or when both are controlled directly or indirectly by a third person.

(17) "Private Lands" means lands within the State of Oregon owned by a person, except "Private lands" does not include federal lands or nonfederal public lands, or any lands the title to which is:

(a) Held in trust by the United States for the benefit of any Indian tribe or individual;

(b) Held by an Indian tribe or individual subject to a restriction by the United States against alienation.

(18) "Public Lands" means any lands owned by the State of Oregon, a city, county, district or municipal or public corporation in Oregon.

(19) "Qualified Archeologist" means a person who has the following qualifications:

(a) A post-graduate degree in archaeology, anthropology, history, classics or other germane discipline with a specialization in archaeology, or a documented equivalency of such a degree;

(b) Twelve weeks of supervised experience in basic archaeological field research, including both survey and excavation and four weeks of laboratory analysis or curating; and

(c) Has designed and executed an archaeological study, as evidenced by a Master of Arts or Master of Science thesis, or report equivalent in scope and quality, dealing with archaeological field research.

(20) "Recognized Educational Institution" means:

(a) An accredited member of a state system of higher education; or

(b) An accredited academic or higher education institution with an accredited program in anthropology.

(21) "Recognized Scientific Institution" means a chartered museum, organization or society with a commitment to the scientific method.

(22) "Removal" means taking any artifact or non-artifactual remains on, imbedded in, or under the surface of the ground.

(23) "Sacred Object" means an archaeological object or other object that:

(a) Is demonstrably revered by any ethnic group, religious group or Indian tribe as holy;

(b) Is used in connection with the religious or spiritual service or worship of a deity or spirit power; or

(c) Was or is needed by traditional native Indian religious leaders for the practice of traditional native Indian religion.

Statutory/Other Authority: ORS 390.235(1)(d)

Statutes/Other Implemented: ORS 358.920 & 390.235

History:

PRD 1-1999, f. 3-2-99, cert. ef. 3-3-99

PR 1-1997, f. & cert. ef. 3-31-97

PR 1-1995, f. & cert. ef. 1-3-95

[736-051-0080](#)

Archaeological Permits: Process for Applying for an Archaeological Permit on Public Lands

(1) A person may not excavate or alter an archaeological site on public lands, make an exploratory excavation on public lands to determine the presence of an archaeological site, or remove from public lands any material of an archaeological, historical, prehistorical or anthropological nature without first obtaining a permit issued by the State Parks and Recreation Department.

(2) A person who is considering a ground-disturbing project on public lands should contact the appropriate Tribe to inquire about the presence of archaeological sites and objects in the project area.

(3) An archaeological permit may be issued to:

(a) A qualified archaeologist in the employ of a person conducting an excavation, examination or gathering of archaeological objects for the benefits of a recognized scientific or educational institution with a view to promoting the knowledge of archaeology or anthropology;

(b) A qualified archaeologist to salvage archaeological objects from unavoidable destruction; or

(c) A qualified archaeologist sponsored by a recognized institution of higher learning, private firm or an Indian tribe as defined in ORS 97.740.

(4) A person who desires an archaeological permit pursuant to ORS 390.235 must submit an application to the Oregon Parks and Recreation Director or his or her designee. The application must be complete and be accompanied by:

(a) A map that clearly shows the location of the proposed work that enables the landowner or land managing agency, SHPO and the appropriate Indian tribe to clearly understand the location of the proposed action;

(b) A resume(s) or vita(s) for the person(s) in direct charge of field work. The resume or vita must demonstrate that the person(s) meets or exceeds the qualifications listed in OAR 736-051-0080(3);

(c) A research design that explicitly develops the rationale behind the proposed research, giving the theoretical orientation, justification for problem selection, logic and procedures for the research strategy. The design must define the universe of study, establish realistic minimal expectations and a realistic schedule of research and provide justified recovery procedures;

(d) The name, address and phone number of the landowner or land managing agency;

(e) A copy of the notice required under ORS 358.950(1), if the excavation is associated with a prehistoric or historic American Indian archaeological site;

(f) A curation facility for archaeological objects uncovered during the project.

(5) Upon receipt of a complete application, the Director or his or her designee shall determine whether public lands, as defined in OAR 736-051-0070(16), are involved.

(6) In consultation with the Commission on Indian Services, the SHPO shall identify the appropriate tribe to be mailed copies of the complete archaeological permit application.

(7) As soon as practicable, but generally not to exceed two working days, the SHPO shall mail copies of the complete application to the appropriate Indian tribe, if any, the land managing agency, Commission on Indian Services, Oregon State Museum of Anthropology, and the applicable local government planning department.

(8)(a) Before issuing a permit, the Director or his or her designee shall contact the appropriate Indian tribe, if any, the landowner or head of the land managing agency, the Director of the Oregon State Museum of Anthropology at the University of Oregon State Museum of Anthropology at the University of Oregon, the appropriate local planning commission, and the Commission on Indian Services;

(b) Notification shall consist of mailing the complete application and its attachments to appropriate state and local entities and the appropriate Indian tribe. The notification shall solicit comments, recommendations for conditions, or objections to the application. Notification letters shall include a highlighted confidentiality statement. Responses to the solicitation must be received within 30 calendar days of the date of the letter. SHPO shall send copies of all responses to the applicant;

(c) If the archaeological site in question is associated with a prehistoric or historic native Indian culture, the applicant shall consult with the appropriate Indian tribe during the 30 day period. At a minimum, consultation shall consist of meeting(s) satisfactory to the tribal governing body and/or its designee, and shall include discussion of the proposed work, archaeological permit terms or conditions, tribal

monitoring of the archaeological and project work, contingency plans for discovery of remains and artifacts during both archaeological work and project development, and curation of artifacts;

(d) If an entity listed in subsection (a) of this section makes any objection or requests a condition to the application, the applicant shall contact the entity and attempt to resolve the issue. If the objection or request for condition is resolved by the applicant and the entity, they shall notify the SHPO in writing of the resolution. If the applicant and the entity cannot resolve the objection or request for condition within the 30 calendar days allowed for comment on the permit application, the Director or his or her designee shall determine what effect, if any, the objection or proposed condition shall have on the permit application.

(9)(a) Notwithstanding the provisions of section (8) of this rule, any person or entity who discovered an archaeological or historic site or burial during construction may request an expedited consultation process. The request may be granted whenever the Director or his or her designee, in consultation with the parties listed in subsection (8)(a) of this rule, determines that the 30 day consultation period provided in subsection (8)(b) of this rule will result in extreme economic hardship to the person or entity making the request, or an undue risk to public health, life or safety, or an undue threat to the site or burial. Examples of situations creating undue risk to public health, life or safety include hazardous material spills, breach of regional flood control facilities, and pipeline failures.

(b) If the Director or his or her designee determines that an expedited consultation process is warranted, the following procedures apply:

(A) The applicant shall contact the Director or his or her designee by telephone and/or facsimile to provide the information described in sections (4) and (7) of this rule;

(B) During the following 48 hours (excluding Saturday, Sunday, and any legal or tribal holidays), the Director or his or her designee shall consult by telephone and/or facsimile with the persons or entities described in section (8) of this rule. If the head of the land managing agency or the tribal governing body of the appropriate Indian tribe objects in writing to an expedited review, the Director or his or her designee will not proceed with the expedited review;

(C) The applicant may proceed with approval from the Director or his or her designee, to be followed by written notice as provided in section (12) of this rule.

(c) For purposes of this section, "extreme economic hardship" means a quantifiable and verifiable expenditure or fiscal loss that is unreasonable for the requestor to bear under the circumstances, including but not limited to the following:

(A) The importance of the project or non-archaeological use that would be delayed during the consultation period;

(B) The additional costs that would be incurred during the consultation period;

(C) The total cost of the project;

(D) The degree to which expedited consultation could achieve the same protection of the site as consultation over the standard 30 day permit application review period;

(E) Whether the requestor reasonably could have avoided the additional costs by anticipating the need for a permit and consultation at an earlier time.

(10) After considering the application, maps, research design, vita and all comments, recommendations for conditions, or objections received by entities with approval authority during consultation, the Director or his or her designee may issue the permit without conditions, issue the permit with conditions or deny the permit. The permit does not relieve the applicant of compliance with other federal or state requirements, including, but not limited to, ORS 97.740 to 97.760, 358.905 to 358.955, and 390.235 to 390.240.

(11) For purposes of this rule, no permit shall be effective without the approval of the state agency or local governing body charged with management of the public land on which the excavation is to be made, and without the approval of the appropriate Indian tribe.

(12) The applicant and all parties defined in ORS 390.235(1)(f) shall be notified of the Director's decision by first class mail.

(13) Disputes among or between applicants and entities with approval authority shall be resolved pursuant to OAR 736-051-0000 through 736-051-0050.

(14) The permit issued by the Department shall be reviewed and may be suspended or revoked if human remains, funerary objects or sacred objects are encountered during an excavation.

Statutory/Other Authority: ORS 390.235 & 390.240

Statutes/Other Implemented: ORS 390.235

History:

PR 1-1995, f. & cert. ef. 1-3-95

[736-051-0090](#)

Archaeological Permits: Process for Applying for an Archaeological Permit on Private Lands

(1) A person may not knowingly and intentionally excavate, injure, destroy or alter an archeological site or object or remove an archeological object from private lands in Oregon unless that activity is authorized by a permit issued pursuant to this rule:

(a) Permits on private lands will not be required for exploratory excavation to determine the presence of an archaeological site;

(b) The provisions of this rule do not apply to a person who unintentionally discovers an archaeological object that has been exposed by the forces of nature and retains the object for personal use, except for sacred objects, human remains, funerary objects or objects of cultural patrimony;

(c) Collection of an arrowhead from the surface of private land is permitted if collection can be accomplished without the use of any tool.

(2)(a) It is strongly recommended that anyone considering a development project on private lands on previously undisturbed ground contact the SHPO and the appropriate Tribe(s) to determine whether archaeological sites and objects are likely to be present in the project area. This contact will reduce the chance that the project will be delayed due to discovery of an archaeological site;

(b) SHPO shall coordinate, along with the governing bodies of the Oregon Tribes and the CIS, joint efforts to create and disseminate informational materials that will be distributed to local governments, federal and state agencies, and permitting authorities on the requirements of ORS Chapters 97, 358 and 390, and these rules.

(3) A person who desires an archaeological permit to excavate or remove objects on private lands pursuant to ORS 358.920(1)(a) and 390.235 must submit a request to the Oregon State Parks and Recreation Director or his or her designee:

(a) The application must be complete and meet the requirements of the public lands rule section OAR 736-051-0080(4). In addition, an application for an archaeological permit on private lands must be accompanied by a copy of the landowner's written permission pursuant to ORS 358.920(5), and a written statement concerning the disposition of any recovered artifacts not covered by 358.920(4)(b);

(b) The archaeological permit process for private lands is the same as that found in OAR 736-051-0080(6), (7), (8), (9), (10), (12) and (14) relating to permits on public lands. The SHPO must be satisfied that reasonable concerns of the appropriate Tribe(s) have been addressed by the applicant.

(4) Upon receipt of an application, the Director or his or her designee may contact the landowner to verify the written permission, location and activities of the proposed activity.

(5) Unless authorized by ORS 97.750, an archaeological permit on private lands shall not be issued if the activity includes burials, funerary objects, or human remains.

(6) If an applicant disputes the permit conditions, or the Director's denial of a permit, the dispute shall be resolved pursuant to OAR 736-051-0000 through 736-051-0050.

Statutory/Other Authority: ORS 390.235 & 390.240

Statutes/Other Implemented: ORS 390.235

History:

[PRD 4-2017, minor correction filed 10/20/2017, effective 10/20/2017](#)

PR 1-1995, f. & cert. ef. 1-3-95

[Parks and Recreation Department](#)

[Chapter 736](#)

Division 51

ARCHAEOLOGICAL PERMITS

[736-051-0000](#)

Dispute Resolution Process

(1) [Oregon Administrative Rules \(OAR\)](#) 736-051-0000 through 736-~~051041~~-0050 establish procedures the Oregon Parks and Recreation Department shall use in resolving a dispute over:

(a) The issuance of an archaeological permit pursuant to [Oregon Revised Statute \(ORS\)](#)~~ORS~~ 390.235;

(b) Curation facilities for archaeological objects uncovered pursuant to a permit issued under ORS 390.235;

(c) The disposition of human remains, ~~associated material objects~~, or funerary objects as identified in ORS 97.750.

(2) ~~Throughout the dispute resolution process, it is the policy of the Oregon Parks and Recreation Department and the Oregon State Historic Preservation Office to use best efforts to protect the confidentiality of information pertaining to the location of archaeological sites and objects will that may be kept from public disclosure pursuant to disclosed during the dispute resolution process.~~

~~Statutory/Other Authority: ORS 192.345 and include provisions for protecting confidential information. 390.124 & 390.240~~

~~Statutes/Other Implemented: ORS 390.124 & 390.240~~

~~History:~~

~~PR 6-1994, f. & cert. ef. 4-22-94~~

[736-051-0010](#)

Dispute Resolution Definitions

As used in OAR 736-051-~~00200000~~ through 736-051-0050, unless the context requires otherwise:

(1) “Alternate Curatorial Facility” means the institution approved by the University of Oregon Museum of Natural and Cultural History (UOMNCH) incorporating the Oregon State Museum of Anthropology (OSMA), and appropriate tribes, meeting standards in ORS 390.235;

(a) Where materials pursuant to ORS 390.235(3)(b) are made available for nondestructive research by scholars;

(i) Where “Scholars” means but is not limited to: tribal members, traditional cultural practitioners, traditional cultural authorities, archaeologists, academic professionals, and students.

(2) “Applicant” means the qualified archaeologist (as defined in ORS 390.235) and the institution/company they represent responsible for the terms and any conditions of an archaeological permit pursuant to ORS 390.235.

(3) “Appropriate Tribe” means the Indian tribe or tribes designated by the Legislative Commission on Indian Services (LCIS).

~~(4)~~ (1) “Arbitration” means a process whereby a neutral third party or panel considers the facts and arguments presented by disputing parties and renders a decision.

(5) “Archaeological Object” has the meaning given that term in ORS 358.905.

(6) “Archaeological Permit” means the permit issued under ORS 390.235.

(7) “Archaeological Site” has the meaning in ORS 358.905.

(8) “Burial” has the meaning given that term in ORS 358.905.

(9) “Conditions” means any additional permit terms proposed for property access, research, notifications, field methods, analyses, monitoring, curation, and reporting, by an entity with approval authority.

(10) “Entity with Approval Authority” means, as appropriate to the context, one or more of the following: The Oregon Parks and Recreation Department , the private landowner as applicable or land managing agency, the Legislative Commission on Indian Services (LCIS) and the most appropriate tribe(s).

(11) “Funerary Objects” have the meanings given that term in ORS 358.905.

(12) “Human Remains” has the meaning given that term in ORS 358.905.

(13) “Indian Tribe” has the meaning given in ORS 97.740.

~~(14)~~ (2) “Mediation” means a process in which a third party assists and facilitates two or more parties to a dispute in reaching a mutually acceptable resolution of the dispute.

~~(15)~~ (3) “Negotiation” means an informal process by which an attempt is made by disputing parties to resolve the dispute without the need for mediation or arbitration.

(16) “Object of Cultural Patrimony” has the meaning given that term in ORS 358.905

(17) “Qualified Archaeologist” means a person that meets ORS 390.235 education and experience criteria related to archaeological collection and excavation, as support of their ability to comply with terms and conditions of a State of Oregon issued archaeological permit.

~~(18) “Sacred object~~(4) “Entity with Approval Authority” means, as appropriate to the context, one or more of the following: The Oregon Parks and Recreation Department, an appropriate Indian tribe, the Oregon State Museum of Anthropology, the state agency or local governing body charged with management of the public land in question.

~~(5) “Applicant” means a person who is applying for an archaeological permit pursuant to ORS 390.235.~~

~~(6) "Recognized Curatorial Facility" means the Oregon State Museum of Anthropology (OSMA).~~

~~(7) "Alternate Curatorial Facility" can mean one or more of the following:~~

~~(a) The scientific, educational, or Indian tribal institution for whose benefit a permit was issued under ORS 390.905 et seq., if approved by OSMA with the concurrence of the appropriate Indian tribe;~~

~~(b) An educational facility other than the institution collecting the material, provided the action is approved by the State Board of Higher Education with the concurrence of the appropriate Indian tribe;~~

~~(c) An educational facility or firm approved by OSMA with the concurrence of the appropriate Indian tribe, and with the requirement that the facility provide an inventory of material to OSMA within six months of collection.~~

~~(8) "Human Remains" has the meaning given that term in ORS 358.905.~~

~~(9) "State Designated Curatorial Facility" "Funerary Objects" have the meanings given that term in ORS 358.905.~~

~~(10) "Associated Material Objects" has the same meaning as section (9) of this rule.~~

~~(11) "Burial Goods" as found in ORS 309.240(1)(b), has the same meaning as section (9) of this rule.~~

~~(12) "Sacred Object" has the meaning given that term in ORS 358.905.~~

~~(13) "Qualified Archaeologist" has the meaning given that term in ORS 390.235.~~

~~(14) "Professional Archaeologist" has the meaning given that term in ORS 97.740(6).~~

~~(15) "Archaeological Permit" means the UOMNCH incorporating the OSMA permit issued under ORS 390.235.~~

~~(16) "Archaeological Object" has the meaning given that term in ORS 358.905.~~

~~(17) "Indian Tribe" has the meaning given in ORS 97.740(4).~~

~~(18) "Appropriate Indian Tribe" means the Indian tribe designated by the Commission on Indian Services as having the greatest interest in the subject matter relating to the dispute.~~

Statutory/Other Authority: ORS 390.124 & 390.240

Statutes/Other Implemented: ORS 390.124 & 390.240

History:

PR 6-1994, f. & cert. ef. 4-22-94

[736-051-0020](#)

Disputes Covered by the Dispute Resolution Process

These rules cover disputes among or between persons or entities : ~~Entities~~ that have statutory authority to: approve or object to the issuance of ~~disapprove~~ an archaeological permit, ~~or to~~ approve or object to ~~disapprove~~ a proposed curatorial facility, ~~to house archaeological objects, or to~~ approve or object to ~~disapprove~~ the disposition of human remains, ~~associated material objects, or~~ funerary objects, sacred

~~objects, or objects of cultural patrimony; apply for ; and applicants for such permits, facilities or dispositions:~~

~~(1) Disputes may arise among or between approving entities and applicants over the terms, conditions, provisions or for approval or disapproval of an archaeological permit, where:~~

~~(1) After a permit application is sent out for review, including after its issuance, disputes may arise among or between entities with approval authority and applicants over any proposed terms, conditions, or objections where:~~

~~(a) An entity with approval authority over an application for a permit objects to its issuancewithholds that approval;~~

~~(i) Based on any proposed (b) An entity with approval authority disagrees over the terms or, conditions, or provisions of the permit;~~

~~(ii) Based on any prior failure of the e) The applicant to complydisagrees with the terms or, conditions or provisions of any previously issuedthe permit, from the time this rule is enacted.~~

~~(iii) Based on any unresolved comments to a report submitted for a previously issued permit.~~

~~(A) Where the as established by an entity with approval authority is able to include documentation supporting comments were requested and not addressed.~~

~~(iv) Based on a prior violation of ORS 390.235 by the applicant for failing to obtain a permit, from the time this rule is enacted.~~

~~(b) The applicant disagrees with any proposed terms or conditions of a permit;~~

~~(c) The applicant disagrees with an objection to their permit application.~~

(2) Disputes may arise over the selection of curatorial facilities ~~for to house~~ archaeological objects uncovered on public lands where:

(a) An entity that has approval authority over the choice of ~~ana-recognized or~~ alternate curatorial facility withholds that approval;

(b) The archaeological permit applicant disagrees with the choice of ~~ana-recognized or~~ alternate curatorial facility as made by an entity with approval authority.

(3) Disputes may arise over the disposition of human ~~skeletal~~ remains, ~~associated material objects, or~~ funerary objects, sacred objects, or objects of cultural patrimony as described in ORS 97.740. 750 ~~where:~~

~~(a) The appropriate Indian tribe has denied consent within 30 days of the mailing of the request for consent;~~

~~(b) The professional archaeologist proposing the excavation (or the company or agency the archaeologist represents), disagrees with the terms, conditions or provisions of the Indian tribe's written consent, if any.~~

Statutory/Other Authority: ORS 390.124 & 390.240

Statutes/Other Implemented: ORS 97.750 & 390.235

History:

~~PR 6-1994, f. & cert. ef. 4-22-94~~

[736-051-0030](#)

Informal Dispute Resolution (Negotiation)

(1) If the permit applicant or an entity with approval authority over an application for a permit objects to the approval or ~~objection~~~~disapproval~~ of a permit or any of its terms ~~or~~, conditions, ~~they or provisions~~, it shall notify the State Historic Preservation Office (SHPO) in writing.

(2) The SHPO shall initiate an informal process by which the disputing parties shall attempt to reach agreement. By mutual agreement, the disputing parties may include the SHPO or other third parties in this process, but they shall not be compensated. ~~The~~~~it is recommended that the~~ informal dispute resolution process shall be completed within ~~60~~30 days.

(3) At any time, a disputing party can terminate the informal dispute resolution process and submit the dispute to mediation or withdraw the dispute by notifying all parties in writing.

Statutory/Other Authority: ~~ORS 390.124 & 390.240~~

Statutes/Other Implemented: ~~ORS 390.240~~

History:

~~PR 6-1994, f. & cert. ef. 4-22-94~~

[736-051-0040](#)

Mediation

(1) The entities with approval authority ~~in consultation with the staff of the Dispute Resolution Commission (DRC)~~, shall compile and maintain a list of potential mediators.

(2) Within ten calendar days of receipt of a written request to mediate, the SHPO shall provide the disputing parties with a list of at least three potential mediators, including written credentials of each one.

(3) Within ten calendar days of receipt of the list of potential mediators, each disputing party shall notify the SHPO if one or more of the mediators would be acceptable.

(4) Disputing parties may ~~jointly~~ interview potential mediators. All parties shall agree on the choice of mediator within five working days after the list of acceptable mediators is forwarded to SHPO.

(5) The mediator shall assist the disputing parties in preparing for mediation.~~the negotiation~~. Such preparations shall include:

(a) A statement of the issues to be mediated;

(b) A list of the parties who will participate in the mediation;

(c) An estimated completion date for the mediation process. By mutual consent, deadlines may be established for ending or continuing the mediation process;

(d) A statement of what shall constitute agreement. An understanding of what constitutes agreement shall include adequate time for each disputing party's decision-making body to ratify ~~a~~ tentative agreement reached by the mediator and the disputing parties;

(e) Throughout the dispute resolution process, the location of archaeological sites and objects will be kept from public disclosure pursuant to ORS 192.345, and include provisions~~Provisions~~ for protecting confidential information about ~~site location~~, traditional or sacred places and practices, or other sensitive information associated with archaeological sites and objects;

(f) Provisions for payment of the mediator's services, if the services are not voluntary;

(g) Any other procedural matters the disputing parties determine need resolution before mediation begins on the substantive issues.

~~Statutory/Other Authority: ORS 390.124 & 390.240~~

~~Statutes/Other Implemented: ORS 390.240~~

~~History:~~

~~PR 6-1994, f. & cert. ef. 4-22-94~~

[736-051-0050](#)

Arbitration

(1) If the mediation does not yield a result satisfactory to all parties, the disputing parties shall notify the SHPO in writing, and the dispute shall proceed to arbitration.

(2) The SHPO shall notify each of the following of the need to designate one representative to serve on an arbitration panel:

(a) The ~~SHPO~~State Historic Preservation Office;

(b) The ~~LCIS~~Commission on Indian Services;

(c) The ~~UOMNCH~~Oregon State Museum of Anthropology;

(d) The governing bodies of the federally-recognized Indian tribes;

~~(e) The Dispute Resolution Commission.~~

(3) All panel members shall be designated within ten calendar days of receipt of SHPO's notification.

(4) By consensus, the panel shall:

(a) Choose a chair who shall be responsible for scheduling arbitration sessions, notifying all parties with standing in the dispute, and convening the arbitration session; and

(b) Establish the procedural framework for the arbitration.

(5) The issues to be arbitrated are limited to those which could not be resolved by the mediation process.

(6) Any party that declines to participate in the mediation or arbitration process waives its right to approve the permit application, or to set ~~terms, conditions or provisions~~ on the approval of the permit application.

~~(7) The decision of the arbitration panel may be appealed pursuant to ORS 36.365.~~

~~Statutory/Other Authority: ORS 390.124 & 390.240~~

~~Statutes/Other Implemented: ORS 390.240~~

~~History:~~

~~PR 6-1994, f. & cert. ef. 4-22-94~~

[736-051-0060](#)

Application for Archaeological Permit

(1) OAR 736-051-0060 through 736-051-0090 establish procedures the Director of the Parks and Recreation Department, or their designee, shall use in issuing archaeological permits on public and private lands.

(2) ~~Per ORS 192.345, it is the policy of the Oregon Parks and Recreation Department (OPRD) and the Oregon State Historic Preservation Office (SHPO) that information pertaining to the location of archaeological sites, cairns, burials, human remains, funerary objects and sites are confidential and exempt from public disclosure. Please consider ethical responsibilities towards, sacred objects or objects of cultural patrimony is confidential information about traditional or sacred places and practices, or other sensitive information associated with archaeological sites and objects. Requirements outside those identified in this rule from local processes or other rules that contradict any of the roles and responsibilities herein, are not enforceable under this process in part due to this exemption that will be disclosed only as required by law.~~

~~Statutory/Other Authority: ORS 390.235(1)(d)~~

~~Statutes/Other Implemented: ORS 390.235~~

~~History:~~

~~PR 1-1995, f. & cert. ef. 1-3-95~~

[736-051-0070](#)

Archaeological Permits: Definitions

As used in OAR 736-051-~~00800060~~ through 736-051-0090 unless the context requires otherwise:

(1) "Alter" means to disturb or remove any part of an archaeological site, ~~or a feature within an archaeological site.~~

(2) "Applicant" means the qualified archaeologist (as defined in ORS 390.235) and the institution/company they represent responsible person who is applying for the terms and any conditions of an archaeological archeological permit pursuant to ORS 390.235.

(3) "Appropriate ~~Indian~~ Tribe" means the Indian tribe or tribes designated by the LCIS Commission on Indian Services as having the greatest interest in the permit application.

(4) "Archaeological Excavation" requires a permit on non-federal public and private Site" means a geographic locality in Oregon, including but not limited to submerged and submersible lands and means

~~to apply the bed of the sea within the state's jurisdiction, that contains archaeological objects and the contextual associations of the objects with:~~

~~(a) Each other; or~~

~~(b) Biotic or geological remains or deposits. Examples of archaeological methodsites include but are not limited to break the ground surface to remove any buried or embedded archaeological object, feature, or non-archaeological material for the purposes of performing archaeological researchshipwrecks, lithic quarries, house-pit villages, camps, burials, lithic scatters, homesteads and townsites.~~

~~(5) "Archaeological Object" has the meaning in ORS 358.905means an object that:~~

~~(a) Is at least 75 years old;~~

~~(b) Is part of the physical record of an indigenous or other culture found in the state or waters of the state; and~~

~~(c) Is material remains of past human life or activity that are of archaeological significance including, but not limited to, monuments, symbols, tools, facilities, technological by-products and dietary by-products.~~

~~(6) "Archaeological Permit" means the permit issued under ORS 390.235.~~

~~(7) "Artifact" means the same as "Archaeological Site" has the meaning in ORS 358.905. Object."~~

~~(8) "Associated Material Objects" means the same as "Funerary Object."~~

~~(9) "Burial" has the meaning Goods," as found in ORS 358.905.390.240(1)(b), means the same as "Funerary Objects."~~

~~(9) "Conditions" means any additional permit terms proposed for property access, research, notifications, field methods, analyses, monitoring, curation, and reporting, by an entity with approval authority.~~

~~(10) "Curatorial Facility" means either:~~

~~(-a) The "State Designated Curatorial Facility", ÷~~

~~(a) "Recognized" curatorial facility, which is the UOMNCH; Oregon State Museum of Anthropology (OSMA); or~~

~~(b) "Alternate Curatorial Facility"—curatorial facility, which means the is defined as follows:~~

~~(A) The scientific, educational, or Indian tribal institution for whose benefit a permit was issued, if approved by UOMNCH and OSMA with the concurrence of the appropriate tribes meeting standards in ORS 390.235. Indian tribe; or~~

~~(11) "Destroy" means to injure in entirety.~~

~~(B) An educational facility other than the institution collecting the material, provided the action is approved by the State Board of Higher Education with the concurrence of the appropriate Indian tribe; or~~

~~(C) An educational facility or firm approved by OSMA with the concurrence of the appropriate Indian tribe, and with the requirement that the facility provide a material inventory to OSMA within six months of collection.~~

~~(11) “Excavate” means to break the ground surface to remove any artifact or to remove an embedded artifact, feature or non-artifactual material in an archaeological site for the purposes of performing anthropological research.~~

~~(12) “Entity with Approval Authority” means, as appropriate to the context, one or more of the following: The Oregon Parks and Recreation Department, the landowner or land managing agency, the Legislative Commission on Indian Services and the most appropriate tribe(s).~~

~~(13) “Exploratory Excavation” is a type of archaeological excavation inventory method for identifying the presence or absence of a buried means digging into or otherwise disturbing the earth to determine whether or not an archaeological object or site, not visible from the surface, requiring a permit on non-federal public lands site exists at the excavation.~~

~~(14) “Funerary object” has the meaning in ORS 358.905.~~

~~(15) Historic Cemetery has the meaning given in ORS 97.772.~~

~~(16) “Human Remains” has the meaning given that term in ORS 358.905.~~

~~(17) “Injure” means to inflict damage of any kind.~~

~~(18) (13) “Funerary Objects” means any artifacts or objects that, as part of a death rite or ceremony of a culture, are reasonably believed to have been placed with the individual remains either at the time of death or later.~~

~~(14) “Human Remains” means the physical remains of a human body, following death, including, but not limited to bones, teeth, hair, ashes or mummified or otherwise preserved soft tissues of an individual.~~

~~(15) “Object of Cultural Patrimony” has the meaning given that term in ORS 358.905 means:~~

~~(19(a) An object having ongoing historical, traditional or cultural importance central to the native Indian group or culture itself, rather than property owned by an individual native Indian, and which, therefore, cannot be alienated, appropriated or conveyed by an individual regardless of whether or not the individual is a member of the Indian tribe. The object shall have been considered inalienable by the native Indian group at the time the object was separated from such group;~~

~~(b) Does not mean unassociated arrowheads, baskets or stone tools for portions of arrowheads, baskets or stone tools.~~

~~(16) “Person” means an individual, a partnership, a public or private corporation, an unincorporated association or any other legal entity. “Person” includes any subsidiary subcontractor, parent company or other affiliate. Business entities are considered affiliates when one controls or has the power to control the other or when both are controlled directly or indirectly by a third person.~~

~~(2017) “Private Lands” means lands within the State of Oregon owned by a person, except “Private lands” does not include federal lands or nonfederal public lands, or any lands the title to which is:~~

- (a) Held in trust by the United States for the benefit of any Indian tribe or individual;
- (b) Held by an Indian tribe or individual subject to a restriction by the United States against alienation.

~~(2118)~~ “Public Lands” means any lands owned by the State of Oregon, a city, county, district or municipal or public corporation in Oregon.

(22) “Qualified Archaeologist” means a person that meets the ORS 390.235 education, fieldwork, laboratory or curation, and reporting experience specific to archaeological excavation and analysis, supporting their ability to comply with any terms and conditions of a State of Oregon issued archaeological permit. The “Qualified Archaeologist” must be able to demonstrate that they:

(a) Possess a ~~(19)~~ “Qualified Archeologist” means a person who has the following qualifications:

~~(a)~~ A post-graduate degree in archaeology, anthropology, history, classics or other germane discipline with a specialization in archaeology, or a documented equivalency of such a degree;

(i) Where “Post-Graduate Degree” means a Master of Arts (MA), Master of Science (MS), or Doctor of Philosophy (PhD) degree from an accredited member of a state system of higher education; or from an accredited academic or higher education institution, through an accredited program in archaeology, anthropology, history, classics or other germane discipline with a specialization in archaeology.

(ii) Where “specialization in archaeology” means the program, coursework, and graduate faculty adhere to departmental requirements for the equivalency of a post-graduate degree in the discipline of archaeology, and the applicable curriculum was appropriately accredited by an accrediting body recognized by the Secretary of the U.S. Department of Education.

(iii) Where “archaeology” means the study of the past based on: archaeological method and theory, the analysis or patterning of any surviving archaeological objects, sites, or features, anthropogenic soils, ethnographic, historic, or oral traditions, and any associated contextual relationships documenting the use of a place or places by people individually or collectively for any amount of time. Archaeology is a subfield of Anthropology.

(iv) Where “documented equivalency” means an official record of a post-graduate degree from a foreign educational institution deemed equivalent to that gained in conventional/accredited U.S. education programs comparable to a MA, MS, or PhD, with a specialization in archaeology.

(b) ~~Have twelve~~Twelve weeks (480 hours) of supervised experience in basic archaeological field research, including both survey and excavation, ~~and~~ four weeks (160 hours) of archaeological laboratory analysis or curating; ~~and~~

(i) Where supervised archaeological field research means at the professional level, as opposed to that obtained as a volunteer, or for undergraduate or graduate school credit.

(ii) Where 480 hours of both survey and excavation means a minimum of 240 hours each.

(c) ~~Have~~Has designed and executed an archaeological study, as evidenced by a MA or MS~~Master of Arts or Master of Science~~ thesis, PhD dissertation, peer reviewed publication, or report equivalent in scope and quality, dealing with archaeological field research, of which they are the sole, or primary/lead author.

(i) Where “archaeological field research” means hands-on analysis of a professionally excavated archaeological collection or a portion of a collection from data recovery or test excavations in an archaeological site prior to or after curation at an Oregon “State Designated”, “Alternate Curatorial Facility”, or federally approved facility.

(A) Where the collection consists of archaeological objects and associated data, such as excavation level forms, field maps, catalogs of archaeological objects, archaeological object inventories, collected samples, and photographs, conveying overall provenience.

(ii) Where being the “sole author” unequivocally demonstrates the “Qualified Archaeologist” designed and executed the archaeological study.

(iii) Where a primary/lead author can clearly demonstrate their specific contribution evidencing they were principally responsible for designing and executing the archaeological study.

(23) ~~(20)~~ “Recognized Educational Institution” means:

(Aa) An accredited member of a state system of higher education; or

(Bb) An accredited academic or higher education institution with an accredited ~~curriculum program~~ in anthropology specializing in archaeology, or related field.

(2421) “Recognized Scientific Institution” means a chartered museum, organization, or society with a commitment to the scientific method.

(25) ~~Remove22) “Removal”~~ means taking any material, whether archaeological or not, embedded in or on the surface artifact or non-artifactual remains on, imbedded in, or under the surface of the ground.

(2623) ~~“Sacred Object” means an archaeological object or other object~~ has the meaning given that term in ORS 358.905. that:

(27) “Tribal Coordination” means a bilateral process of discussion, cooperation, and decision-making about the proposed investigation to assist with the development of the archaeological permit research design.

(a) Is demonstrably revered by any ethnic group, religious group or Indian tribe as holy;

(b) Is used in connection with the religious or spiritual service or worship of a deity or spirit power; or

(c) Was or is needed by traditional native Indian religious leaders for the practice of traditional native Indian religion.

Statutory/Other Authority: ORS 390.235(1)(d)

Statutes/Other Implemented: ORS 358.920 & 390.235

History:

PRD 1-1999, f. 3-2-99, cert. ef. 3-3-99

PR 1-1997, f. & cert. ef. 3-31-97

PR 1-1995, f. & cert. ef. 1-3-95

[736-051-0080](#)

Archaeological Permits: Process for Applying for an Archaeological Permit on Public Lands

(1) A person may not excavate or alter an archaeological site on public lands, make an exploratory excavation on public lands to determine the presence of an archaeological site, or remove from public lands any material of an archaeological, historical, prehistorical, or anthropological nature without first obtaining a permit issued by the State Parks and Recreation Department.

~~(2) A person who is considering a ground-disturbing project on public lands should contact the appropriate Tribe to inquire about the presence of archaeological sites and objects in the project area.~~

~~(3) An archaeological permit may be issued to:~~

~~(a) A qualified archaeologist in the employ of a person conducting an excavation, examination or gathering of archaeological objects for the benefits of a recognized scientific or educational institution with a view to promoting the knowledge of archaeology or anthropology;~~

~~(b) A qualified archaeologist to salvage archaeological objects from unavoidable destruction; or~~

~~(c) A qualified archaeologist sponsored by a recognized institution of higher learning, private firm or an Indian tribe as defined in ORS 97.740.~~

(34) A qualified archaeologist ~~person~~ who desires an archaeological permit pursuant to ORS 390.235 must submit an application to the Oregon Parks and Recreation Director or their ~~his or her~~ designee. The application must be complete and include ~~be accompanied by:~~

~~(a) A map, such as a USGS 7.5 minute topographic at 1:24,000 scale, that clearly shows the location of the proposed work~~ that enables the landowner or land managing agency, SHPO, LCIS, and the appropriate Indian tribe(s) to clearly understand the exact location of the archaeological investigation ~~proposed action;~~

~~(b) A research design that explicitly develops the rationale behind the proposed archaeological investigation. The research design supports the applicant's understanding of appropriate archaeological methods, theoretical paradigms, analyses, curation, laws, anticipated results, and an understanding of the context of place through time. Tribal coordination will assist in the development of the research design which includes background information from any pertinent publications, gray literature, informants, tribes, ethnographies, historic properties of religious and cultural significance, traditional cultural properties, documented archaeological objects and sites, historic documents or National Register bulletins relevant to the objectives of the archaeological investigation and its location. The research design includes appropriate field and analytical methods to achieve any research objectives based on informed expectations, and is part of the terms of an issued permit;~~

~~(c) A resume(s) or vita(s) for the person(s) in direct charge of field work. The resume or vita must demonstrate that the person(s) meets or exceeds the qualifications listed in OAR 736-051-0080(3);~~

~~(c) A research design that explicitly develops the rationale behind the proposed research, giving the theoretical orientation, justification for problem selection, logic and procedures for the research strategy. The design must define the universe of study, establish realistic minimal expectations and a realistic schedule of research and provide justified recovery procedures;~~

~~(d)~~ The name, ~~address~~ and ~~current contact information~~ phone number of the landowner or land managing agency;

~~(d)~~ The State designated or approved alternate curation ~~(e) A copy of the notice required under ORS 358.950(1), if the excavation is associated with a prehistoric or historic American Indian archaeological site;~~

~~(f) A curation facility for archaeological objects, field forms, photographs, and other attendant data from the proposed archaeological investigation;~~

~~(e)~~ A list of any tribes engaged in tribal coordination prior to submitting the archaeological permit application;

~~(f)~~ A statement from the applicant disclosing any prior state or federal archaeological law violations;

~~(g)~~ A list of all open archaeological permits issued to the applicant still pending;

~~(h)~~ A list of any outstanding archaeological permits from the past ten years;

~~(i)~~ As applicable, a contingency plan for any unanticipated discoveries of archaeological objects or sites ~~uncovered~~ during any stage of a the project or undertaking.

~~(45)~~ Upon receipt of a complete application, the Director or ~~their~~ his or her designee, shall determine whether public lands, as defined in OAR 736-051-0070(16), are involved.

~~(56)~~ In consultation with the ~~LCIS Commission on Indian Services~~, the SHPO shall identify the appropriate tribe ~~(s) with review authority over to be mailed copies of the complete~~ archaeological permit application.

~~(a)~~ In the event LCIS is not able to respond within 48 hours, SHPO will designate the most appropriate tribes based on past permits issued in the vicinity.

~~(6)~~ The SHPO shall provide ~~(7) As soon as practicable, but generally not to exceed two working days, the SHPO shall mail copies of the complete application to the appropriate Indian tribe, if any, the land managing agency, Commission on Indian Services, Oregon State Museum of Anthropology, and the applicable local government planning department.~~

~~(8)(a)~~ Before issuing a permit, the Director or his or her designee shall contact the appropriate Indian tribe, if any, the landowner or head of the land managing agency, the Director of the Oregon State Museum of Anthropology at the University of Oregon State Museum of Anthropology at the University of Oregon, the appropriate local planning commission, and the Commission on Indian Services;

~~(b)~~ Notification shall consist of mailing the complete application to entities with approval authority for review.

~~(a)~~ Entities with approval authority have and its attachments to appropriate state and local entities and the appropriate Indian tribe. The notification shall solicit comments, recommendations for conditions, or objections to the application. Notification letters shall include a highlighted confidentiality statement. Responses to the solicitation must be received within 30 calendar days ~~from~~ of the date the application is sent to respond with their approval, approval with conditions, or objection. No response within 30-

~~days means no conditions or objections were submitted to SHPO of the letter.~~ SHPO shall send copies of all responses to the applicant;

~~(b) Before issuing a permit, SHPO shall review any conditions to be added to the issued permit, or objections received from entities with review authority;~~

~~(c) At if the request of any tribe archaeological site in question is associated with review authority over a permit application prehistoric or historic native Indian culture, the applicant shall continue to coordinate consult with them the appropriate Indian tribe during the 30-day review period. Tribal coordination may At a minimum, consultation shall consist of meeting(s) satisfactory to the tribal governing body and/or its designee, and shall include, but is not limited to a discussion of the proposed work, archaeological investigations, research design, permit terms or conditions, reporting, tribal monitoring of the permit work, curation, inadvertent discovery contingency plans during the archaeological investigations, or any associated and project design or work, contingency plans for discovery of remains and artifacts during both archaeological work and project development, and curation of artifacts;~~

~~(7) Any (d) If an entity listed in subsection (a) of this section makes any objection or requests a condition to the application, the applicant shall contact the entity and attempt to resolve the issue. If the objection or request for condition is resolved by the applicant and the entity, they shall notify the SHPO in writing of the resolution. If the applicant and the entity cannot resolve the objection or request for condition within the 30 calendar days allowed for comment on the permit application, the Director or his or her designee shall determine what effect, if any, the objection or proposed condition shall have on the permit application.~~

~~(9)(a) Notwithstanding the provisions of section (8) of this rule, any person or entity who post SHPO and appropriate tribe clearance review discovers an archaeological object, site, human remains, burial, discovered an archaeological or historic cemetery, funerary object, sacred object, or object of cultural patrimony, site or burial during construction may request an expedited 48-hour permit review consultation process. The request may be granted if whenever the Director or their his or her designee, in coordination consultation with entities with approval authority determinethe parties listed in subsection (8)(a) of this rule, determines that the 30-day permit review consultation period provided in subsection (8)(b) of this rule will result in extreme economic hardship to the person or entity making the request, or an undue risk to public health, life or safety, or an undue threat to the archaeological object, site, human remains, site or burial, funerary object, sacred object, or object of cultural patrimony. Examples of situations creating undue risk to public health, life or safety include: hazardous material spills, breach of regional flood control facilities, and pipeline failures. Examples of creating undue threat to an archaeological object, site, human remains, burial, historic cemetery, funerary object, sacred object, or object of cultural patrimony include: erosion, susceptibility to theft, prolonged exposure to the elements, and proposed construction related activities.~~

~~(ab) If the Director or their his or her designee determines that an expedited review request consultation process is warranted, the following procedures apply:~~

~~(iA) The applicant shall submit an expedited permit application for the contact the Director or their his or her designee by telephone and/or facsimile to send out to entities with approval authority for review provide the information described in sections (4) and (7) of this rule;~~

~~(iiB)~~ During the following 48 hours (excluding Saturday, Sunday, and any State, Federal, legal or Tribal holidays), entities with approval authority may respond to the permit application with their approval, approval with conditions, or object. No response within 48 hours means the entity with approval authority did not condition or object. If any entity with approval authority Director or his or her designee shall consult by telephone and/or facsimile with the persons or entities described in section ~~(8)~~ of this rule. If the head of the land managing agency or the tribal governing body of the appropriate Indian tribe objects in writing to an expedited review, the director Director or their his or her designee will not proceed with the expedited review;

~~(iiiC)~~ The applicant may proceed when the permit is issued with approval from the Director or his or her designee, to be followed by written notice as provided in section (12) of this rule.

~~(be)~~ For the purposes of this section, excluding burials, funerary objects, sacred objects, “extreme economic hardship” means a quantifiable and verifiable expenditure or any objects fiscal loss that is unreasonable for the requestor to bear under the circumstances, including but not limited to the following:

~~(A)~~ The importance of cultural patrimony, the project or non-archaeological use that would be delayed during the consultation period;

~~(B)~~ The additional costs that would be incurred during the consultation period;

~~(C)~~ The total cost of the project;

~~(D)~~ The degree to which expedited 48-hour consultation could achieve the same protection of the site as consultation over the standard 30 day permit reviews are only available if prior application review period;

~~(E)~~ Whether the requestor reasonably could have avoided the additional costs by the most appropriate tribes, and SHPO has occurred anticipating the need for a permit and consultation at an earlier time.

~~(8)10~~ After considering the application, maps, research design, vita and all comments, recommendations for conditions, or objections received by entities with approval authority during consultation, the Director or their his or her designee may issue the permit without conditions, issue the permit with conditions, or deny the permit. The permit does not relieve the applicant of compliance with other federal or state requirements, including, but not limited to, ORS 97.740 to 97.760, 358.905 to 358.961955, and 390.235 to 390.240.

~~(9)11~~ For purposes of this rule, no permit shall be effective without the approval of the state agency or local governing body charged with management of the public land on which the excavation is to be made, and without the approval of the appropriate Indian tribe.

~~(12)~~ The applicant and all parties defined in ORS 390.235(1)(f) shall be notified of the Director’s decision by first class mail.

~~(13)~~ Disputes among or between applicants and entities with review approval authority will receive a copy of the approved signed permit from the Director or their designee shall be resolved pursuant to OAR 736-051-0000 through 736-051-0050.

~~(10) All work under a(14) The permit issued by the Department shall be put on hold in the event reviewed and may be suspended or revoked if human remains, funerary objects, or sacred objects, or objects of cultural patrimony are encountered during the investigation, including post-fieldwork curation processing. For such discoveries, the permit holder must contact the LCIS, appropriate tribes, Oregon State Police, and SHPO an excavation.~~

~~(11) Archaeological permits may be amended according to the process developed by the Director or their designee in coordination with Oregon Tribes.~~

~~Statutory/Other Authority: ORS 390.235 & 390.240~~

~~Statutes/Other Implemented: ORS 390.235~~

~~History:~~

~~PR 1-1995, f. & cert. ef. 1-3-95~~

~~736-051-0090~~

Archaeological Permits: Process for Applying for an Archaeological Permit on Private Lands

~~(1) A person may not knowingly and intentionally excavate, injure, destroy, or alter an archeological site or object, or remove an archeological object from private lands in Oregon unless that activity is authorized by a permit issued pursuant to this rule:~~

~~(a) Permits on private lands will not be required for exploratory excavation to determine the presence of an archaeological site;~~

~~(b) If an archaeological site is identified, all excavation must stop and the site will be recorded on a State of Oregon Archaeological Site Record and submitted to SHPO.~~

~~(i) If additional excavation is necessary to establish the boundary of the site, complete the exploratory probe, or conduct further archaeological investigations of the site, it will require a permit issued under this rule.~~

~~(2)(b) The provisions of this rule do not apply to a person who unintentionally discovers an archaeological object that has been exposed by the forces of nature and retains the object for personal use, except for sacred objects, human remains, funerary objects or objects of cultural patrimony;~~

~~(c) Collection of an arrowhead from the surface of private land is permitted if collection can be accomplished without the use of any tool.~~

~~(2)(a) It is strongly recommended that anyone considering a development project on private lands on previously undisturbed ground contact the SHPO and the appropriate Tribe(s) to determine whether archaeological sites and objects are likely to be present in the project area. This contact will reduce the chance that the project will be delayed due to discovery of an archaeological site;~~

~~(b) SHPO shall coordinate, along with the governing bodies of the Oregon Tribes and the CIS, joint efforts to create and disseminate informational materials that will be distributed to local governments, federal and state agencies, and permitting authorities on the requirements of ORS Chapters 97, 358 and 390, and these rules.~~

~~(3)~~ A person who desires an archaeological permit ~~to excavate or remove objects~~ on private lands pursuant to ORS 358.920(1)(a) and 390.235 must submit a request to the ~~Oregon State Parks and Recreation~~ Director or ~~their~~his or her designee:

(a) The application must be complete and meet the requirements of the public lands rule section OAR 736-051-0080~~(34)~~. In addition, an application for an archaeological permit on private lands must be accompanied by a copy of the landowner's written permission pursuant to ORS 358.920(5), and a written statement concerning the disposition of any recovered ~~archaeological objects~~artifacts not covered by 358.920(4)(b);

(b) The archaeological permit process for private lands ~~includes~~is the same processes as ~~those that~~ found in OAR 736-051-0080 ~~(2-11(6), (7), (8), (9), (10), (12) and (14))~~ relating to permits on public lands. ~~The SHPO must be satisfied that reasonable concerns of the appropriate Tribe(s) have been addressed by the applicant.~~

~~(3)(4) Upon receipt of an application, the Director or his or her designee may contact the landowner to verify the written permission, location and activities of the proposed activity.~~

~~(5) Unless authorized by ORS 97.750, an archaeological permit on private lands shall not be issued for if the activity includes burials, human remains, funerary objects, sacred objects, or objects of cultural patrimony or human remains.~~

~~(4) Disputes(6) If an applicant disputes the permit conditions, or the Director's denial of a permit, the dispute shall be resolved pursuant to OAR 736-051-0000 through 736-051-0050.~~

~~(5) Archaeological permits may be amended according to the process developed by the Director or their designee in coordination with Oregon Tribes. Statutory/Other Authority: ORS 390.235 & 390.240 Statutes/Other Implemented: ORS 390.235~~

~~History:~~

~~PRD 4 2017, minor correction filed 10/20/2017, effective 10/20/2017~~

~~PR 1-1995, f. & cert. ef. 1-3-95~~

Oregon Parks and Recreation Commission

April 13, 2022

Agenda Item:	9b	Action
Public Comment Allowed:	No	
Topic:	Request to adopt Rulemaking, National Register Statement Requirements, OAR 736-050-0250	
Presented by:	Ian P. Johnson, Associate Deputy State Historic Preservation Officer Katie Gauthier, Government Relations and Policy Manager	

Background: In November 2021, the Keeper of the National Register of Historic Places within the National Park Service (NPS) notified the Oregon State Historic Preservation Office (SHPO) that owner objections to listing a property in the National Register of Historic Places were no longer required to be notarized if the objection is made in compliance with 28 U.S.C. § 1746. Under this new requirement, NPS must consider objections made under penalty of perjury consistent with 28 U.S.C. § 1746 to be valid objections, even if they are not notarized, if those objections otherwise comply with the requirements in the NPS's regulations. Staff requested permission to amend Oregon Administrative Rule (OAR) 736-050-0250 to allow an owner to object in compliance with 28 U.S.C. § 1746 or submit a notarized statement at the Oregon Parks and Recreation Commission's February 2022 meeting. The proposed, limited amendments are written to avoid potential objections to the nomination process for procedural errors and ensure timely processing of owner objection statements and nominations to the National Register. The Commission granted permission to open the rule-making process at the April meeting.

Staff Response to Public Comment: The public comment period opened Tuesday, March 1 and extends through close of business day on Thursday, March 31. As of Friday, March 18, the agency received a single public comment in support of the rule change submitted through the agency's online portal. The agency provided notice to interested parties and the media, and published a public press release. A virtual public meeting is scheduled for the evening of Tuesday, March 22. This brief was completed and submitted on March 21. Staff will provide a complete summary of public comments received at the Commission's April 13 meeting.

As of the writing of this memo, staff have made no changes to the text of the draft rule introduced to the Commission at the body's April 2022 meeting based on the lack of substantive objections or recommendations to revise the proposed text. As written, the proposed rule amendments meet the stated objective allowing owners to object to listing a property in the federal National Register of Historic Places under federal law and associated implementing

regulations either by submitting a notarized statement or if making the objection under penalty of perjury consistent with 28 U.S.C. § 1746.

Staff Recommendation: Based on comments received, staff recommends that the Oregon Parks and Recreation Commission (Commission) adopt amendments to Oregon Administrative Rule (OAR) 736-050-0250, State Advisory Committee on Historic Preservation: Staff Activities Relating to the National Register Program.

Prior Action by Commission: The Commission opened the rulemaking process at the body's February 2022 meeting, agenda item 9a, Request to Open Rulemaking National Register Statement Requirements, OAR 736-050-0250. The Commission previously adopted amendments to National Register program rules in June 2021, including OAR 736-050-0250.

Action Requested: Adopt amendments to OAR 736-050-0250 to update requirements for submission of an objection to listing a property in the federal National Register of Historic Places.

Attachments:

Attachment A: Marked copy of the OAR 736-050-0250

Attachment B: Clean copy of OAR 736-050-0250

Prepared by: Ian P. Johnson, Associate Deputy State Historic Preservation Officer
Katie Gauthier, Government Relations and Policy Manager

9b: National Register Rulemaking

Attachment A: Marked Copy

OAR 736-050-0250

State Advisory Committee on Historic Preservation: Staff Activities Relating to the National Register Program

(1) The SHPO may delegate authority under this division to the Deputy SHPO, the Associate Deputy SHPO, the National Register Program Coordinator, or other Oregon SHPO staff.

(2) The SHPO must appoint a National Register Program Coordinator to administer the state's National Register of Historic Places program.

(3) Upon request of the receiving party, the Oregon SHPO must make available an un-redacted, complete copy of a National Register nomination form to the federal planning agency, owner(s), CLG, and chief elected official as described in 36 CFR § 60.6(x) (2020), and a copy to the proponent, public, and Tribes subject to the provisions of sections (9) and (10) at any time.

(4) The Oregon SHPO may provide notice to owners by public press release or other means in place of written notice when there are more than 50 owners, except for the public comment period notice described in paragraphs 11(a)(C) and (D), and 18(f)(C).

(5) A proponent may submit a National Register nomination form regardless of ownership status to the SHPO, the federal preservation officer for the appropriate federal agency if the property is entirely located on federally-administered lands, or Tribal Historic Preservation Officer for the appropriate Tribe if the property is entirely located on trust land.

(6) A Tribe may request government-to-government consultation with the Oregon SHPO at any time.

(7) The Oregon SHPO must provide a written response to a proponent seeking to amend a National Register nomination form for a historic property or to nominate a property to the National Register within 60 calendar days of receipt and within 45 calendar days of receipt for a petition to remove a historic property from the National Register stating whether the National Register nomination form is:

(a) Adequately documented;

(b) Technically and professionally correct and sufficient; and

(c) Demonstrates that the property does or does not meet the National Register criteria for evaluation.

(8) A proponent may withdraw the National Register nomination form at any time by submitting a written request to the SHPO.

(9) The Oregon SHPO must keep all or qualifying portions of a National Register nomination form, associated correspondence, and other documents confidential and conditionally exempt from public disclosure under the conditions established in ORS 192.345 and as described in 36 CFR § 60.6(x) (2020). Oregon SHPO staff must apply the conditions of ORS 192.355(4) to submitted National Register nomination forms. In addition, SHPO will not make specific information relating to the location of property available if disclosure would create a risk of destruction or harm as provided in 36 CFR § 60.6(x) (2020).

(10) The SHPO may petition the Keeper to keep all or qualifying portions of a National Register nomination form, correspondence, and other documents confidential and exempt from public disclosure under the provisions of the Act, 54 USC § 307103.

(11) The Oregon SHPO must provide a public comment period for each National Register nomination form considered by the committee. The copy of the National Register nomination form made available for public comment may be redacted as provided for under sections (9) and (10) as applicable.

(a) The Oregon SHPO must:

(A) Identify owners using county property tax records obtained within 90 calendar days prior to opening the public comment period;

(B) Open the public comment period not less than 30 calendar days nor more than 75 calendar days before a scheduled committee meeting;

(C) Mail a written public comment period notice to the proponent; owner; CLG; chief elected official; federal, state, and local agencies and subdivisions of Oregon State Government that meet the definition of owner; and Tribes. The Oregon SHPO may choose to coordinate with local governments on the format, content, and distribution of the public comment period notice when nominating districts; and

(D) Include in the public comment period notice the date and location of the scheduled committee meeting and the process for submitting comments.

(b) The Oregon SHPO may:

(A) Publish a public comment period notice in one or more local newspapers of general circulation in the area where the nominated property is located.

(B) Hold or attend meetings or publish information to inform the public and interested parties if the SHPO believes that such an action is in the public interest.

(12) Any person may comment on a National Register nomination form considered by the committee.

(a) The Oregon SHPO must receive written comments at least five business days before the scheduled committee meeting, except as provided for CLGs in section (13). Any written comments received after this time but before the meeting must be included in the public record, but the Oregon SHPO must not provide the comments to the committee.

(b) A person may provide written materials or oral comment to the committee for consideration the day of the committee meeting.

(c) The committee must only consider written and oral comment submitted during the public comment period that address:

(A) Requirements for a complete National Register nomination form described in section (7), or

(B) Procedural requirements under state and federal law.

(d) All comments received in any format are public records, except as provided for under sections (9) and (10).

(e) The public comment period must remain open when the committee defers making a recommendation under the provisions of OAR 736-050-0260(11) or (12).

(13) A CLG may object to the nomination of a property to the National Register or a major revision to a National Register nomination form for a historic property as described in 54 USC § 302504 when all or part of the property is within the CLG's jurisdiction.

(a) The CLG must provide the public an opportunity to comment and consider these comments when making a recommendation to the SHPO.

(b) A valid objection under this subsection must meet the following requirements:

(A) The SHPO must receive the CLG's objection within 60 calendar days following the opening of the public comment period described in section (11);

(B) The chief elected official recommends that the property not be nominated to the National Register or that the National Register nomination form for a historic property not receive a major revision; and

(C) The local historic preservation commission recommends by majority opinion that the National Register nomination form does not meet one or more of the criteria described in section (7).

(c) Upon receipt of a valid objection under subsection (b), Oregon SHPO must:

(A) Remove the National Register nomination form from committee consideration and take no further review action from the date the Oregon SHPO receives the objection;

(B) Suspend the nomination process for 30 calendar days; and

(C) Provide written notice to the persons noted under ~~subsection paragraph (11)~~(a)(C) within ~~five~~5 calendar days of the action. The notice must specify the date the SHPO received the objection under paragraph (b)(A).

(d) Any person may appeal a CLG's objection by submitting a written statement appealing the CLG's objection to the SHPO within 30 calendar days after the date the Oregon SHPO received the CLG's objection. Following the receipt of the appeal, the SHPO must submit the National Register nomination form for committee consideration at the next regularly- scheduled committee meeting, not less than 90 calendar days from the date the Oregon SHPO received the CLG's objection.

(e) If an appeal is not submitted from the date the SHPO received a valid objection under subsection (b) within 30 calendar days the SHPO must stop the nomination process and take all necessary actions to close the administrative process.

(f) A CLG may object each time proposed revisions to a National Register nomination form meet the definition of a “major revision.”

(14) The executive department of state government as defined in ORS 174.112 and political subdivisions of state government may comment on a National Register nomination form. State government and political subdivisions of state government may object to listing a property in the National Register, but the SHPO must not count the objection toward the total number of private property owners needed to prevent the property from being listed in the National Register as prohibited by the provisions of 36 CFR § 60.6(g) (2020). As used in section (14), “political subdivision” includes counties, cities, taxing districts, and any other governmental unit within this state.

(15) The SHPO must determine if the majority of owners object to listing a nominated property in the National Register by comparing the total number of owners identified on the property owner list to the number of ~~notarized- valid~~ statements that object to listing the property in the National Register. The SHPO must provide the Keeper the property owner list and tally of ~~notarized- valid~~ statements objecting to nominating the property to the National Register through the end of the public comment period.

(a) The Oregon SHPO must create a property owner list that includes each owner and parcel of real property within the boundary of a building, district, object, site, or structure nominated for listing in the National Register using county property tax records obtained as provided in ~~subsection paragraph~~(11)(a)(A). That property owner list is the official list of property owners and real property throughout the public comment period. In creating the property owner list, the Oregon SHPO must:

(A) Edit the property owner list based on the submission of a valid, ~~notarized~~ statement and as described in section (16).

- (B) Assume that the property tax records provided by the county assessor are accurate.
- (C) Include owners on the property owner list regardless of whether the owner can be contacted using the information included on the property owner list provided by the county assessor's office.
- (D) When encountering similar names, compare the name and mailing addresses to determine if there are one or more owners. The SHPO must consider Jane Doe and Jane S. Doe as two distinct persons when the county property tax records identify differing mailing addresses. If the mailing address is the same, the SHPO must identify these individuals as the same person.
- (E) Count entities, such as named trusts, corporations, partnerships, etc., as individual owners when the owner name differs in any way, even when the mailing address is the same.
- (F) Count a trust as a single owner when multiple trustees are named, but no trust is identified.
- (G) Unless the terms of a trust expressly provide that the trust is irrevocable, count the settlor as the owner of the trust consistent with ORS 130.505.
- (H) Use any adopted system of abbreviations, symbols, or other codes used by the county assessor from the county providing property tax records to identify owners when creating the property owner list.

(b) An owner may submit a ~~valid-notarized~~ statement to take the actions in paragraphs (A) to (E) at any time during the public comment period:

- (A) Object to listing a property in the National Register. An owner may object only once regardless of how many properties or what portion of a property the owner owns;
- (B) Withdraw their own previous objection;
- (C) Remove the previous owner as the owner of record from the property owner list and withdraw the previous owner's objection;
- (D) Assert ownership of a property within the nominated area when the property owner list does not include the owner or parcel of real property and add the name of the owner and the real property to the property owner list; or
- (E) Any combination of paragraphs (A), (B), (C), and (D).

(c) To be valid, ~~notarized~~ statements must meet the following criteria:

- (A) An owner must submit to the Oregon SHPO an original, ~~notarized~~ statement;
- (B) The ~~notarized~~ statement must be on a form provided by the Oregon SHPO;

(C) The ~~notarized~~ statement must identify private, real property within the boundary of the nominated property that the owner owns;

(D) The ~~notarized~~ statement must clearly identify the intent of the owner as described in subsection (b);

(E) The owner must identify the name they were previously known by and listed in the county property tax records if different from their current legal name;

(F) The ~~notarized~~ statement must clearly identify the nature of the owner's property interest; and

(G) The owner must sign and date the statement, and either:

(i) The statement must include an unsworn declaration that information provided is true under penalty of perjury in compliance with the provisions of 28 U.S.C. § 1746; and/or

(ii) A notary public must confirm, or “attest,” the identity of the owner signing the notarized statement as provided in ORS chapter 194 and OAR chapter 160, division 100.; and

~~(G) The owner must sign and date the notarized statement.; and~~

~~(H) A notary public must confirm, or “attest,” the identity of the owner signing the notarized statement as provided in ORS chapter 194 and OAR chapter 160, division 100.~~

(d) The SHPO must consider only the most recent valid ~~notarized~~ statement submitted under subsection (b) when determining the total number of statements of objection and the total number of owners and parcels of real property on the property owner list under subsection (a). ~~and notarized statements of objection.~~

(e) The SHPO must not accept a ~~notarized~~ statement that does not meet the requirements of subsection (c), or that is incomplete, or illegible.

(f) The legal representative of an owner may submit a ~~valid notarized~~ statement on an owner's behalf under subsection (b). The representative must provide documentation demonstrating that they legally represent the owner.

(g) A person not listed on the property owner list created in subsection (a) that submits a ~~notarized~~ statement must submit documentation demonstrating that they meet the definition of “owner” in OAR 736-050-0230(16), including instruments used to create legal entities such as trusts, limited liability corporations, and any other legal entities. For a trust, a certification of trust that complies with ORS 130.860 is adequate documentation under subsection (g).

(h) When removing the objection of a previous owner under paragraph (b)(C), a person must submit documentation demonstrating that the previous owner no longer has an ownership interest and that they themselves meet the definition of “owner” in OAR 736-050-0230(16).

(i) The SHPO must not recognize any person as an “owner” who is unable or refuses to submit documentation as required by this rule.

(j) All ~~notarized~~ statements and accompanying documentation are public records as defined in ORS 192.311(5)(a) and subject to inspection as provided for in ORS 192.311 through ORS 192.380.

(k) The SHPO must acknowledge persons in writing within 30 calendar days of the receipt of their ~~notarized~~ statement and any accompanying documents. Acknowledgements must indicate if the ~~notarized~~ statement and accompanying documents are valid under subsections (c) through (i) and if not valid, describe why and how to correct the error.

(16) The SHPO must examine the accuracy of the property owner list and validity of ~~notarized~~ statements when the SHPO determines that the reasonably possible outcome of identifying potential error(s) may determine if the nominated property is or is not listed in the National Register.

(a) Any person may request that the SHPO carry out an examination of the property owner list. Such a request must be in writing, and identify and document with evidence of one or more of the following:

(A) Factual inaccuracy;

(B) Error in the property owner list;

(C) Error in the tally of ~~notarized~~ valid statements; or

(D) Any combination of paragraphs (A), (B), or (C).

(b) The SHPO must respond in writing to the petitioner within 15 calendar days of a request for an examination stating whether the SHPO will conduct an examination and the basis for the decision. The SHPO must provide the response to the proponent, owner, CLG, chief elected official, and Tribes if proceeding with an examination.

(c) The SHPO may complete an examination for any reason. The SHPO must notify the proponent, owner, CLG, chief elected official, and Tribes within ~~five~~ calendar days of initiating an examination.

(d) The SHPO must determine how best to conduct an examination on a case-by-case basis based on the nature of the identified concern.

(e) An examination under subsection (a) is limited to the specific nature of the identified concern and does not include an evaluation of each entry in the property owner list or each submitted ~~notarized~~ statement unless the SHPO determines that this step is necessary.

(f) The SHPO may choose to re-examine the property owner list and ~~notarized~~ statements against official land recordation records or property tax assessor records, the results of a title search, or any public record.

(g) The SHPO may require that persons submit documentation to prove their ownership status, existence of real property, or the validity of their submitted ~~notarized~~ statements. The Oregon SHPO must not treat persons as “owners” who are unable or refuse to submit documentation for the purposes of taking any action under subsection (15)(b).

(h) The SHPO may add or remove a person or real property from the property owner list or invalidate a ~~notarized~~ statement upon completion of an examination. The SHPO must inform a person in writing within 30 calendar days of acting and provide the reason the SHPO took the action. A person receiving notice of the SHPO's action under this section may submit documentation as described in this rule to the SHPO for an action under subsection (15)(b).

(i) An examination under section (16) is complete once the SHPO determines that further identification and correction of errors will not determine if the nominated property will or will not be listed in the National Register.

(17) The SHPO must consider the comments from the committee, CLG, Tribes, and all other comments received during the public comment period when making a recommendation and submitting a National Register nomination form to the Keeper under the provisions of 36 CFR § 60.6(o) and (p) (2020). The SHPO must provide the recommendation provided to the Keeper to the proponent, owner, CLG, chief elected official, and Tribes.

(18) Under the Act, upon receipt of a National Register form from the SHPO the Keeper may list a property in the National Register; correct a submitted National Register nomination form and list the nominated property in the National Register; or return a National Register nomination form without listing the property in the National Register.

(a) If the Keeper lists a property in the National Register the SHPO must provide notice to the committee at their next regularly-scheduled meeting and written notice to the proponent, owner(s), CLG, chief elected official, and Tribes within 30 calendar days.

(b) If the Keeper corrects a submitted National Register form and lists a property in the National Register, the Oregon SHPO must provide notice to the committee at their next regularly-scheduled meeting, and written notice to the proponent, owner(s), CLG, chief elected official, and Tribes within 30 calendar days.

(c) If the Keeper returns a National Register nomination form without listing the property in the National Register, the Oregon SHPO must provide notice to the committee, and written notice to the proponent, owner(s), CLG, chief elected official, and Tribes within 30 calendar days. The notice will forward the Keeper's reasons for the return and state whether the SHPO intends to resubmit the National Register nomination form to the committee or the Keeper and the reasons for the decision.

(A) The Oregon SHPO must provide the proponent, owner, CLG, chief elected official, and Tribes 30 calendar days to comment and consider their opinion before making a final decision. The SHPO must provide a written final decision to the proponent, owner, CLG, chief elected official, and Tribes after considering any comments received.

(B) The SHPO may resubmit a National Register nomination form not requiring major revision to the Keeper without committee review.

(C) The SHPO may resubmit to the committee a National Register nomination form returned by the Keeper. The SHPO must address the reasons the Keeper returned the National Register nomination form before resubmission to the committee and the Keeper.

(d) The SHPO may either require that the proponent complete the revisions identified by the Keeper before resubmission of the National Register nomination form to the committee or the Keeper or the Oregon SHPO may complete needed revisions itself.

(e) The SHPO must resubmit a National Register nomination form to the Keeper within two years from the date the Keeper initially returns the National Register nomination form for correction as described in subsection (c) or end the National Register nomination process. If the SHPO does not resubmit a National Register nomination form to the Keeper the public comment period and the nomination process end.

(f) The Oregon SHPO must complete the following to continue the National Register process following the two-year period from the date of the Keeper's initial return of a National Register nomination form:

(A) Review the National Register form as described in section (7) for completeness and accuracy. The Oregon SHPO may require the proponent to complete revisions before resubmitting the National Register nomination form to the committee or the Keeper, or the Oregon SHPO may complete needed revisions itself;

(B) Close the public comment period;

(C) Provide a public comment period notice as provided in paragraph (11)(a)(C), and subsection (11)(b); and

(D) Complete an examination of the property owner list created in subsection (15)(a) using the process described in subsections (16)(d) through (i).

(g) ~~Notarized~~ Sstatements submitted and determined to be valid under the provisions of section (15) remain valid unless determined to not be valid under the provisions of section (16).

(19) Petitioning the Keeper:

(a) The SHPO may petition the Keeper to take the following actions without review by the committee:

(A) Remove a razed historic property from the National Register;

(B) Amend a National Register nomination form for a historic property when the amendment is not a major revision;

(C) Change the contributing status of an individual historic property within a historic district listed in the National Register;

(D) Change the contributing status or recommend the relocation of a secondary historic property, such as a garage, shed, or other small-scale building, object, site, or structure that in the opinion of the SHPO does not qualify for listing in the National Register on its own merit included within the boundary of a historic property; or

(E) Any combination of paragraphs (A), (B), (C), and (D).

(b) Prior to petitioning the Keeper under subsection (a), the SHPO must notify the proponent, owner, CLG, chief elected official, and Tribes, and allow for a 30 calendar day comment period following notice and consider the provided comments. The SHPO may waive the comment period if the CLG provides a comment period as part of a local process.

(A) The SHPO must provide the proponent, owner, CLG, chief elected official, and Tribes notice of the SHPO's petition to the Keeper.

(B) The SHPO must notify the proponent, owner, CLG, chief elected official, and Tribes of the Keeper's decision within 30 calendar days. The SHPO shall inform the committee at the next scheduled committee meeting.

(20) Any person may appeal directly to the Keeper any SHPO decision regarding the nomination of a property to the National Register, an amendment to a National Register form for a historic property, or a petition to remove a historic property from the National Register under the provisions of 36 CFR § 60.12 (2020).

(21) The SHPO may refer a nomination submitted pursuant to section (5) to the State of Oregon Office of Administrative Hearings for a contested case hearing as provided in ORS 183.413 to 183.425, 183.440 to 18.452, 183.457, 183.460 to 183.470 following the Keeper's return of a National Register nomination form for issues related to counting owners, parcels of real property, and ~~notarized~~ valid statements. The proponent shall be a party to any contested case. The SHPO shall designate the scope of issues that may be addressed in the contested case, which may include:

(a) The determination of whether a majority of owners provided ~~notarized~~ valid statements of objection as provided in section (15); and

(b) The determination of the accuracy of the property owner list and validity of ~~notarized~~ statements as provided in section (16).

9b: National Register Rule Change

Attachment B: Clean Copy

AMEND: 736-050-0250

RULE TITLE: State Advisory Committee on Historic Preservation: Staff Activities Relating to the National Register Program

RULE SUMMARY: Outlines the process for submitting and reviewing National Register nominations. Amendment removes requirement for statements to be notarized.

RULE TEXT:

- (1) The SHPO may delegate authority under this division to the Deputy SHPO, the Associate Deputy SHPO, the National Register Program Coordinator, or other Oregon SHPO staff.
- (2) The SHPO must appoint a National Register Program Coordinator to administer the state's National Register of Historic Places program.
- (3) Upon request of the receiving party, the Oregon SHPO must make available an un-redacted, complete copy of a National Register nomination form to the federal planning agency, owner(s), CLG, and chief elected official as described in 36 CFR § 60.6(x) (2020), and a copy to the proponent, public, and Tribes subject to the provisions of sections (9) and (10) at any time.
- (4) The Oregon SHPO may provide notice to owners by public press release or other means in place of written notice when there are more than 50 owners, except for the public comment period notice described in paragraphs 11(a)(C) and (D), and 18(f)(C).
- (5) A proponent may submit a National Register nomination form regardless of ownership status to the SHPO, the federal preservation officer for the appropriate federal agency if the property is entirely located on federally-administered lands, or Tribal Historic Preservation Officer for the appropriate Tribe if the property is entirely located on trust land.
- (6) A Tribe may request government-to-government consultation with the Oregon SHPO at any time.
- (7) The Oregon SHPO must provide a written response to a proponent seeking to amend a National Register nomination form for a historic property or to nominate a property to the National Register within 60 calendar days of receipt and within 45 calendar days of receipt for a petition to remove a historic property from the National Register stating whether the National Register nomination form is:
 - (a) Adequately documented;
 - (b) Technically and professionally correct and sufficient; and
 - (c) Demonstrates that the property does or does not meet the National Register criteria for evaluation.
- (8) A proponent may withdraw the National Register nomination form at any time by submitting a written request to the SHPO.

(9) The Oregon SHPO must keep all or qualifying portions of a National Register nomination form, associated correspondence, and other documents confidential and conditionally exempt from public disclosure under the conditions established in ORS 192.345 and as described in 36 CFR § 60.6(x) (2020). Oregon SHPO staff must apply the conditions of ORS 192.355(4) to submitted National Register nomination forms. In addition, SHPO will not make specific information relating to the location of property available if disclosure would create a risk of destruction or harm as provided in 36 CFR § 60.6(x) (2020).

(10) The SHPO may petition the Keeper to keep all or qualifying portions of a National Register nomination form, correspondence, and other documents confidential and exempt from public disclosure under the provisions of the Act, 54 USC § 307103.

(11) The Oregon SHPO must provide a public comment period for each National Register nomination form considered by the committee. The copy of the National Register nomination form made available for public comment may be redacted as provided for under sections (9) and (10) as applicable.

(a) The Oregon SHPO must:

(A) Identify owners using county property tax records obtained within 90 calendar days prior to opening the public comment period;

(B) Open the public comment period not less than 30 calendar days nor more than 75 calendar days before a scheduled committee meeting;

(C) Mail a written public comment period notice to the proponent; owner; CLG; chief elected official; federal, state, and local agencies and subdivisions of Oregon State Government that meet the definition of owner; and Tribes. The Oregon SHPO may choose to coordinate with local governments on the format, content, and distribution of the public comment period notice when nominating districts; and

(D) Include in the public comment period notice the date and location of the scheduled committee meeting and the process for submitting comments.

(b) The Oregon SHPO may:

(A) Publish a public comment period notice in one or more local newspapers of general circulation in the area where the nominated property is located.

(B) Hold or attend meetings or publish information to inform the public and interested parties if the SHPO believes that such an action is in the public interest.

(12) Any person may comment on a National Register nomination form considered by the committee.

(a) The Oregon SHPO must receive written comments at least five business days before the scheduled committee meeting, except as provided for CLGs in section (13). Any written comments received after this time but before the meeting must be included in the public record, but the Oregon SHPO must not provide the comments to the committee.

(b) A person may provide written materials or oral comment to the committee for consideration the day of the committee meeting.

(c) The committee must only consider written and oral comment submitted during the public comment period that address:

(A) Requirements for a complete National Register nomination form described in section (7), or

(B) Procedural requirements under state and federal law.

(d) All comments received in any format are public records, except as provided for under sections (9) and (10).

(e) The public comment period must remain open when the committee defers making a recommendation under the provisions of OAR 736-050-0260(11) or (12).

(13) A CLG may object to the nomination of a property to the National Register or a major revision to a National Register nomination form for a historic property as described in 54 USC § 302504 when all or part of the property is within the CLG's jurisdiction.

(a) The CLG must provide the public an opportunity to comment and consider these comments when making a recommendation to the SHPO.

(b) A valid objection under this subsection must meet the following requirements:

(A) The SHPO must receive the CLG's objection within 60 calendar days following the opening of the public comment period described in section (11);

(B) The chief elected official recommends that the property not be nominated to the National Register or that the National Register nomination form for a historic property not receive a major revision; and

(C) The local historic preservation commission recommends by majority opinion that the National Register nomination form does not meet one or more of the criteria described in section (7).

(c) Upon receipt of a valid objection under subsection (b), Oregon SHPO must:

(A) Remove the National Register nomination form from committee consideration and take no further review action from the date the Oregon SHPO receives the objection;

(B) Suspend the nomination process for 30 calendar days; and

(C) Provide written notice to the persons noted under paragraph 11(a)(C) within five calendar days of the action. The notice must specify the date the SHPO received the objection under paragraph (b)(A).

(d) Any person may appeal a CLG's objection by submitting a written statement appealing the CLGs

objection to the SHPO within 30 calendar days after the date the Oregon SHPO received the CLG's objection. Following the receipt of the appeal, the SHPO must submit the National Register nomination form for committee consideration at the next regularly- scheduled committee meeting, not less than 90 calendar days from the date the Oregon SHPO received the CLGs objection.

(e) If an appeal is not submitted from the date the SHPO received a valid objection under subsection (b) within 30 calendar days the SHPO must stop the nomination process and take all necessary actions to close the administrative process.

(f) A CLG may object each time proposed revisions to a National Register nomination form meet the definition of a "major revision."

(14) The executive department of state government as defined in ORS 174.112 and political subdivisions of state government may comment on a National Register nomination form. State government and political subdivisions of state government may object to listing a property in the National Register, but the SHPO must not count the objection toward the total number of private property owners needed to prevent the property from being listed in the National Register as prohibited by the provisions of 36 CFR § 60.6(g) (2020). As used in section (14), "political subdivision" includes counties, cities, taxing districts, and any other governmental unit within this state.

(15) The SHPO must determine if the majority of owners object to listing a nominated property in the National Register by comparing the total number of owners identified on the property owner list to the number of valid statements that object to listing the property in the National Register. The SHPO must provide the Keeper the property owner list and tally of valid statements objecting to nominating the property to the National Register through the end of the public comment period.

(a) The Oregon SHPO must create a property owner list that includes each owner and parcel of real property within the boundary of a building, district, object, site, or structure nominated for listing in the National Register using county property tax records obtained as provided in paragraph (11)(a)(A). That property owner list is the official list of property owners and real property throughout the public comment period. In creating the property owner list, the Oregon SHPO must:

(A) Edit the property owner list based on the submission of a valid statement and as described in section (16).

(B) Assume that the property tax records provided by the county assessor are accurate.

(C) Include owners on the property owner list regardless of whether the owner can be contacted using the information included on the property owner list provided by the county assessor's office.

(D) When encountering similar names, compare the name and mailing addresses to determine if there are one or more owners. The SHPO must consider Jane Doe and Jane S. Doe as two distinct persons when the county property tax records identify differing mailing addresses. If the mailing address is the same, the SHPO must identify these individuals as the same person.

(E) Count entities, such as named trusts, corporations, partnerships, etc., as individual owners when the owner name differs in any way, even when the mailing address is the same.

(F) Count a trust as a single owner when multiple trustees are named, but no trust is identified.

(G) Unless the terms of a trust expressly provide that the trust is irrevocable, count the settlor as the owner of the trust consistent with ORS 130.505.

(H) Use any adopted system of abbreviations, symbols, or other codes used by the county assessor from the county providing property tax records to identify owners when creating the property owner list.

(b) An owner may submit a statement to take the actions in paragraphs (A) to (E) at any time during the public comment period:

(A) Object to listing a property in the National Register. An owner may object only once regardless of how many properties or what portion of a property the owner owns;

(B) Withdraw their own previous objection;

(C) Remove the previous owner as the owner of record from the property owner list and withdraw the previous owner's objection;

(D) Assert ownership of a property within the nominated area when the property owner list does not include the owner or parcel of real property and add the name of the owner and the real property to the property owner list; or

(E) Any combination of paragraphs (A), (B), (C), and (D).

(c) To be valid statements must meet the following criteria:

(A) An owner must submit to the Oregon SHPO an original statement;

(B) The statement must be on a form provided by the Oregon SHPO;

(C) The statement must identify private, real property within the boundary of the nominated property that the owner owns;

(D) The statement must clearly identify the intent of the owner as described in subsection (b);

(E) The owner must identify the name they were previously known by and listed in the county property tax records if different from their current legal name;

(F) The statement must clearly identify the nature of the owner's property interest;

(G) The owner must sign and date the statement, and either:

(i) The statement must include an unsworn declaration that information provided is true under penalty of perjury in compliance with the provisions of 28U.S.C § 1746; or

(ii) A notary public must confirm, or "attest" the identity of the owner signing the notarized statement as provided in ORS chapter 194 and OAR chapter 160, division 100.

(d) The SHPO must consider only the most recent valid statement submitted under subsection (b) when determining the total number of statements of objection and the total number of owners and parcels of real property on the property owner list under subsection (a).

(e) The SHPO must not accept a statement that does not meet the requirements of subsection (c), or that is incomplete, or illegible.

(f) The legal representative of an owner may submit a statement on an owner's behalf under subsection (b). The representative must provide documentation demonstrating that they legally represent the owner.

(g) A person not listed on the property owner list created in subsection (a) that submits a statement must submit documentation demonstrating that they meet the definition of "owner" in OAR 736-050-0230(16), including instruments used to create legal entities such as trusts, limited liability corporations, and any other legal entities. For a trust, a certification of trust that complies with ORS 130.860 is adequate documentation under subsection (g).

(h) When removing the objection of a previous owner under paragraph (b)(C), a person must submit documentation demonstrating that the previous owner no longer has an ownership interest and that they themselves meet the definition of "owner" in OAR 736-050- 0230(16).

(i) The SHPO must not recognize any person as an "owner" who is unable or refuses to submit documentation as required by this rule.

(j) All statements and accompanying documentation are public records as defined in ORS 192.311(5)(a) and subject to inspection as provided for in ORS 192.311 through ORS 192.380.

(k) The SHPO must acknowledge persons in writing within 30 calendar days of the receipt of their statement and any accompanying documents. Acknowledgements must indicate if the statement and accompanying documents are valid under subsections (c) through (i) and if not valid, describe why and how to correct the error.

(16) The SHPO must examine the accuracy of the property owner list and validity of statements when the SHPO determines that the reasonably possible outcome of identifying potential error(s) may determine if the nominated property is or is not listed in the National Register.

(a) Any person may request that the SHPO carry out an examination of the property owner list. Such a request must be in writing, and identify and document with evidence of one or more of the following:

(A) Factual inaccuracy;

(B) Error in the property owner list;

(C) Error in the tally of valid statements; or

(D) Any combination of paragraphs (A), (B), or (C).

(b) The SHPO must respond in writing to the petitioner within 15 calendar days of a request for an examination stating whether the SHPO will conduct an examination and the basis for the decision. The SHPO must provide the response to the proponent, owner, CLG, chief elected official, and Tribes if proceeding with an examination.

(c) The SHPO may complete an examination for any reason. The SHPO must notify the proponent, owner, CLG, chief elected official, and Tribes within 5 calendar days of initiating an examination.

(d) The SHPO must determine how best to conduct an examination on a case-by-case basis based on the nature of the identified concern.

(e) An examination under subsection (a) is limited to the specific nature of the identified concern and does not include an evaluation of each entry in the property owner list or each submitted statement unless the SHPO determines that this step is necessary.

(f) The SHPO may choose to re-examine the property owner list and valid statements against official land recordation records or property tax assessor records, the results of a title search, or any public record.

(g) The SHPO may require that persons submit documentation to prove their ownership status, existence of real property, or the validity of their submitted statements. The Oregon SHPO must not treat persons as “owners” who are unable or refuse to submit documentation for the purposes of taking any action under subsection (15)(b).

(h) The SHPO may add or remove a person or real property from the property owner list or invalidate a statement upon completion of an examination. The SHPO must inform a person in writing within 30 calendar days of acting and provide the reason the SHPO took the action. A person receiving notice of the SHPO’s action under this section may submit documentation as described in this rule to the SHPO for an action under subsection (15)(b).

(i) An examination under section (16) is complete once the SHPO determines that further identification and correction of errors will not determine if the nominated property will or will not be listed in the National Register.

(17) The SHPO must consider the comments from the committee, CLG, Tribes, and all other comments received during the public comment period when making a recommendation and submitting a National Register nomination form to the Keeper under the provisions of 36 CFR § 60.6(o) and (p) (2020). The SHPO must provide the recommendation provided to the Keeper to the proponent, owner,

CLG, chief elected official, and Tribes.

(18) Under the Act, upon receipt of a National Register form from the SHPO the Keeper may list a property in the National Register; correct a submitted National Register nomination form and list the nominated property in the National Register; or return a National Register nomination form without listing the property in the National Register.

(a) If the Keeper lists a property in the National Register the SHPO must provide notice to the committee at their next regularly-scheduled meeting and written notice to the proponent, owner(s), CLG, chief elected official, and Tribes within 30 calendar days.

(b) If the Keeper corrects a submitted National Register form and lists a property in the National Register, the Oregon SHPO must provide notice to the committee at their next regularly-scheduled meeting, and written notice to the proponent, owner(s), CLG, chief elected official, and Tribes within 30 calendar days.

(c) If the Keeper returns a National Register nomination form without listing the property in the National Register, the Oregon SHPO must provide notice to the committee, and written notice to the proponent, owner(s), CLG, chief elected official, and Tribes within 30 calendar days. The notice will forward the Keeper's reasons for the return and state whether the SHPO intends to resubmit the National Register nomination form to the committee or the Keeper and the reasons for the decision.

(A) The Oregon SHPO must provide the proponent, owner, CLG, chief elected official, and Tribes 30 calendar days to comment and consider their opinion before making a final decision. The SHPO must provide a written final decision to the proponent, owner, CLG, chief elected official, and Tribes after considering any comments received.

(B) The SHPO may resubmit a National Register nomination form not requiring major revision to the Keeper without committee review.

(C) The SHPO may resubmit to the committee a National Register nomination form returned by the Keeper. The SHPO must address the reasons the Keeper returned the National Register nomination form before resubmission to the committee and the Keeper.

(d) The SHPO may either require that the proponent complete the revisions identified by the Keeper before resubmission of the National Register nomination form to the committee or the Keeper or the Oregon SHPO may complete needed revisions itself.

(e) The SHPO must resubmit a National Register nomination form to the Keeper within two years from the date the Keeper initially returns the National Register nomination form for correction as described in subsection (c) or end the National Register nomination process. If the SHPO does not resubmit a National Register nomination form to the Keeper the public comment period and the nomination process end.

(f) The Oregon SHPO must complete the following to continue the National Register process following the two-year period from the date of the Keeper's initial return of a National Register

nomination form:

(A) Review the National Register form as described in section (7) for completeness and accuracy. The Oregon SHPO may require the proponent to complete revisions before resubmitting the National Register nomination form to the committee or the Keeper, or the Oregon SHPO may complete needed revisions itself;

(B) Close the public comment period;

(C) Provide a public comment period notice as provided in paragraph (11)(a)(C), and subsection (11)(b);

(D) Complete an examination of the property owner list created in subsection 15(a) using the process described in subsections (16)(d) through (i).

(g) Statements submitted and determined to be valid under the provisions of section (15) remain valid unless determined to not be valid under the provisions of section (16).

(19) Petitioning the Keeper:

(a) The SHPO may petition the Keeper to take the following actions without review by the committee:

(A) Remove a razed historic property from the National Register;

(B) Amend a National Register nomination form for a historic property when the amendment is not a major revision;

(C) Change the contributing status of an individual historic property within a historic district listed in the National Register;

(D) Change the contributing status or recommend the relocation of a secondary historic property, such as a garage, shed, or other small-scale building, object, site, or structure that in the opinion of the SHPO does not qualify for listing in the National Register on its own merit included within the boundary of a historic property; or

(E) Any combination of paragraphs (A), (B), (C), and (D).

(b) Prior to petitioning the Keeper under subsection (a), the SHPO must notify the proponent, owner, CLG, chief elected official, and Tribes, and allow for a 30 calendar day comment period following notice and consider the provided comments. The SHPO may waive the comment period if the CLG provides a comment period as part of a local process.

(A) The SHPO must provide the proponent, owner, CLG, chief elected official, and Tribes notice of the SHPO's petition to the Keeper.

(B) The SHPO must notify the proponent, owner, CLG, chief elected official, and Tribes of the

Keeper's decision within 30 calendar days. The SHPO shall inform the committee at the next scheduled committee meeting.

(20) Any person may appeal directly to the Keeper any SHPO decision regarding the nomination of a property to the National Register, an amendment to a National Register form for a historic property, or a petition to remove a historic property from the National Register under the provisions of 36 CFR § 60.12 (2020).

(21) The SHPO may refer a nomination submitted pursuant to section (5) to the State of Oregon Office of Administrative Hearings for a contested case hearing as provided in ORS 183.413 to 183.425, 183.440 to 18.452, 183.457, 183.460 to 183.470 following the Keeper's return of a National Register nomination form for issues related to counting owners, parcels of real property, and valid statements. The proponent shall be a party to any contested case. The SHPO shall designate the scope of issues that may be addressed in the contested case, which may include:

(a) The determination of whether a majority of owners provided valid statements of objection as provided in section (15); and

(b) The determination of the accuracy of the property owner list and validity of statements as provided in section (16).

STATUTORY/OTHER AUTHORITY: ORS 358.617

STATUTES/OTHER IMPLEMENTED: ORS 358.565(3)

Oregon Parks and Recreation Commission

April 14, 2022

Agenda Item: 9c **Information**

Public Comment Allowed: No

Topic: Update on Rulemaking for Take-off and Landing of UAS on state park properties

Presented by: Katie Gauthier, Government Relations and Policy Manager

Public comment for proposed rules on the take-off and landing of UAS/drones on state park properties opened on February 15 and will close on April 7.

As of March 21, the agency had received 501 comments on the proposed rules. Two virtual public hearings are scheduled at the end of March. One public hearing will focus on proposed amendments to park area rules and the other on proposed changes to ocean shore rules.

Comments are posted on the agency rulemaking website on a weekly basis. Many of the comments are regarding the use of drones, not specifically the proposed language of the rules. Concerns over impact to wildlife and noise are the primary objections. Supporters of drone use share a desire to enjoy photography/videography and flying drones as a form of recreation.

Drone operators must follow existing FAA rules, as well as, other state and federal rules and laws. OPRD does not have the authority to regulate air space, only the Federal Aviation Administration is able to restrict flight. While the agency has managed drone use within existing authority, the proposed rules are intended to provide greater clarity for drone operators and visitors about where drones may take-off and land.

The goal of the proposed rules is to develop a balanced approach that allows for the take-off and landing of UAS in state parks, while restricting it in some areas for the protection of natural or cultural resources. In some cases, individuals will be allowed to seek a permit or permission to take-off or land. It is possible, the agency will consider seasonal closures to accommodate nesting periods or other natural resource concerns.

Staff are reviewing comments and plan to bring a recommendation for proposed rules to the Commission's June meeting for consideration. If adopted, the agency will work to develop maps that indicate areas closed to take-off and landing and well as an education campaign to help encourage responsible drone use.

Prior Action by Commission: The Commission approved opening rulemaking for UAS take off and landing in November 2021.

Action Requested: none

Attachments: Attachment A

Prepared by: Katie Gauthier

9c: Attachment A: Outline of Potential Approaches to Drone Rules
UPDATED, April 8, 2022

OPRD has received over 1,000 comments regarding take-off and landing of UAS or drones in state parks and along the ocean shores since mid-February. Staff are analyzing the comments, ideas and suggestion shared and evaluating options to incorporate the feedback into recommendations to present to the Commission at a future meeting. Changes to proposed drafts are common for contentious issues, and this will be no exception.

The goal of establishing rules on drones has been to provide the clarity needed for drone pilots, hobbyists and the general public to know where drone take-off and landing is allowed and prohibited within a state park. The agency has sought to provide a balanced approach that allows for drone use while protecting areas that could have impacts to wildlife, natural, cultural or scenic resources. It is possible to continue managing this form of recreation without new rules, though that option can lead to inconsistency and a lack of clarity for all park visitors, whether they engage in this form of recreation or not.

Due to the significant interest in this topic and divergent recommendations on a fundamental approach, staff have extended an opportunity for individuals to directly comment on the proposed rules before the Commission. The draft was reviewed by an advisory committee before being released. The first meeting of the advisory committee included a staff natural resource expert, but not one from outside the agency, though one was invited and declined. A second advisory committee meeting included external natural resource advocate, but more effort should have been made to go beyond the staff natural resource expertise. Staff consulted independent of the advisory group with interested tribes and federal wildlife officials.

There are at least two general options for framing rules guiding management of UAS within park properties and the ocean shore. Should:

- all areas be **open** to take-off and landing of drones unless a natural, cultural, scenic or visitor safety concerns results in a need for a **closure**; or should
- all areas be **closed** to drone take-off and landing and then be evaluated to determine areas that could be **opened** if natural, cultural, scenic and visitor safety resources allowed?

It is important to remember a few key points when considering the approach that will best serve the park experience, the wildlife, natural, cultural and scenic resources managed by the agency, and frontline staff:

- State and local governments do not have jurisdiction to regulate airspace. The Federal Aviation Administration has sole responsibility for airspace and has established rules and regulations for the management of UAS. All UAS pilots must abide by FAA rules and regulations in their operations. FAA regulations for small unmanned aircraft systems are detailed in [14 CFR, Part 107](#).
- OPRD does not have any jurisdiction to regulate UAS activity outside of park property boundaries or on the ocean shore above the statutory vegetation line or below extreme low tide.

- Existing agency, state and federal rules and laws apply to all park visitors, including drone operators.
- OPRD has been managing drone use on a case-by-case basis within existing rules. The new rules will be utilized as a tool, but the agency would retain other management strategies, as well.
- OPRD has a multidisciplinary team of professional staff evaluating implementation issues. If approved, implementation of the proposed rules will include an evaluation of locations at a park by park level with input from stakeholders, partners and other interested parties.
- Developing and distributing internal and external education materials on responsible drone use and awareness of new rules will be part of any implementation plans.

As currently written, the proposed rules start with most areas open to take-off and landing of UAS, but specify select areas that are initially closed and outline the criteria for designating additional areas to be closed. In the park area rules (Division 10), all overnight facilities, or campgrounds, are automatically closed to drone use. On the ocean shore (Division 21), areas that are designated as marine protected zones under the Territorial Sea Plan would be closed to drone use. In addition, snowy plover management areas would continue to be closed seasonally. Additional areas would be closed if natural, cultural, scenic or visitor safety concerns warrant it. Those closure zones would be designated by the director and posted on the agency website for 30 days before implementation. Maps of closure zones would be developed and posted on the agency website.

The following sections outline reasoning and arguments shared by proponents of each approach in public comments received over the last eight weeks. This is a brief reflection of major themes and not inclusive of the variety of comments received. There are many more nuances to this discussion and additional ideas suggested in the public comment that will be shared in the full staff analysis provided at a later date. The full text of all comments is available on the [agency rulemaking website](#).

Closed, Unless Open

- **Wildlife impacts:** Concern over impact of drone use on wildlife has been the top concern raised during public comment. Commenters are particularly concerned about the impact to birds. Many individuals shared experiences of seeing birds harassed by drones. Others saw nesting birds leaving colonies based on the presence of a drone.

Oregon is home to many endangered or threatened species of sea and shorebirds along the ocean shore including tufted puffin, western snowy plover, and black oystercatchers. Disruption of their habitat by drone interference may further their decline.

Many commenters shared stories of seeing drones interfering with birds. One commenter explained the impact of drone interactions this way, “Black Oystercatchers will leave their nests and chase drones just as they would a Peregrine Falcon, but unlike the falcons, drones persist in the area, and so, the birds can be off the nests for a long time (over 30 minutes) leaving either the eggs or young chicks open to predation by Ravens, Western

Gulls, and Peregrine Falcons. Also, we have witnessed Black Oystercatchers fly 300 to 400 feet high chasing drones. Normally, these birds only chase raptors up to about 200 feet. Chasing drones at that higher elevation causes them to expend a lot more energy. Drone harassment certainly costs Black Oystercatcher parents a lot of energy that should instead be devoted to raising healthy chicks to fledging.”

It is not always known where nests are located and they may move from time to time. Therefore, keeping areas closed until an evaluation of potential wildlife impacts can be conducted is a prudent management decision. Commenters also suggested that areas be re-evaluated and closed based on the best available science.

- **Scientific review of areas to open:** Commenters suggested that an external technical working group review areas to be opened. The working group would include agency, academic, NGO and tribal experts to determine if wildlife, cultural and recreational impacts could be minimized.
- **Modeled after existing rules:** Currently, Oregon State Parks are closed to hunting, with the exception of a select areas within certain parks, a closed, until open approach would match this model. When metal detecting rules were implemented, the rule was written to prohibit the activity unless it was allowed. Proponents feel this approach will work best for drone management, as well.
- **Noise:** Many commenters shared concerns about the noise of drones impacting their recreational experience and would like to see the areas of use limited to preserve the recreational experience for visitors not operating drones.
- **Recreational conflict:** Existing recreational groups, particularly rock climbers and equestrians, expressed safety concerns over interactions with drones. Starting from a place of closed will allow for an evaluation of recreational conflict to determine if a site can safely accommodate drone usage without impacting existing recreational uses.
- **Enforcement:** Commenters felt that more closed areas would make it easier to know that drones were not permitted and the presence of a drone could be reported and addressed by rangers more easily.

Open, Unless Closed

- **Current regulations:** Proponents of limited closures cited many existing rules and regulations that UAS operators must abide by that protect wildlife, other people and restrict the manner in which drones are operated. The open, unless restricted approach is more closely aligned with the management approach utilized by the FAA. Pilots are currently provided information about areas that are closed or restricted and are required to review information prior to any flight operations.

- **Overcrowding:** Proponents have expressed concern that limiting drone operations to small sections of parks or the ocean shore will lead to overcrowding in those areas and diminished recreational opportunities for drone operators and may create safety concerns.
- **Rule adherence:** A number of drone pilots expressed a desire to recreate responsibly, stating that if they knew reasons for closures they would be more likely to abide by the closure than if it were a blanket pre-emption of drone operations.

As one commenter stated, “I have to admit that if the default rule for state parks was ‘no drone takeoff and landing unless specifically allowed’ and I was near a park that hadn’t specifically allowed them, I would assume that drone use just hadn’t been evaluated at that location yet. In that circumstance I would be more likely to try to find a place where I could take off from non-state park property but still fly over the park per the FAA to get any pictures/views I wanted. Whereas if the proposed rules go into effect and I came to a state park that disallowed drone takeoffs and landings I would assume there was good reasons for it and avoid flying over the park altogether.”

- **Staffing Capacity:** Availability of staff to enforce closed areas is a concern. If a large portion of state park properties and the ocean shore are closed, it may be more difficult to manage visitor expectations of staff to respond to drone usage in a closed area. Resources will be spread too thin and it will be difficult to know the highest priority areas. Additionally, increased closure areas will create more drone operators applying for permits to take-off and land in closed areas, taxing staffing capacity to process permit applications.
- **Fair compromise:** Currently in Oregon State Parks, UAS are allowed unless restrictions are necessary based on another rule, like protection of natural resources. For example, seasonal closures are in place during raptor nesting season at Smith Rock State Park. The proposed rules would expand areas of automatic closure and create criteria for additional areas to close, proponents of this approach feel that is a fair compromise that establishes reasonable rules to protect wildlife, special places and natural resources while allowing for a form of recreation that enables individuals to enjoy parks and share images of the beauty they discover.
- **Accessibility and Inclusion:** Individuals commented on the ability of drones to allow for greater accessibility of Oregon park properties. Individuals with disabilities shared how with the utilization of a drone they could enjoy outdoor activities and view sites they did not have access to in another way. Others commented that while their form of recreation may be newer than some, it should not be considered less valuable.

Oregon Parks and Recreation Commission

April 14, 2022

Agenda Item:	9c	Information
Public Comment Allowed:	No	
Topic:	Update on Rulemaking for Take-off and Landing of UAS on state park properties	
Presented by	Katie Gauthier, Government Relations and Policy Manager	

Public comment for proposed rules on the take-off and landing of UAS/drones on state park properties opened on February 15 and will close on April 7.

As of March 21, the agency had received 501 comments on the proposed rules. Two virtual public hearings are scheduled at the end of March. One public hearing will focus on proposed amendments to park area rules and the other on proposed changes to ocean shore rules.

Comments are posted on the agency rulemaking website on a weekly basis. Many of the comments are regarding the use of drones, not specifically the proposed language of the rules. Concerns over impact to wildlife and noise are the primary objections. Supporters of drone use share a desire to enjoy photography/videography and flying drones as a form of recreation.

Drone operators must follow existing FAA rules, as well as, other state and federal rules and laws. OPRD does not have the authority to regulate air space, only the Federal Aviation Administration is able to restrict flight. While the agency has managed drone use within existing authority, the proposed rules are intended to provide greater clarity for drone operators and visitors about where drones may take-off and land.

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Staff are reviewing comments and plan to bring a recommendation for proposed rules to the Commission's June meeting for consideration. If adopted, the agency will work to develop maps that indicate areas closed to take-off and landing and well as an education campaign to help encourage responsible drone use.

Prior Action by Commission: The Commission approved opening rulemaking for UAS take off and landing in November 2021.

Action Requested: none

Attachments: none

Prepared by: Katie Gauthier

Oregon Parks and Recreation Commission

April 14, 2022

Agenda Item:	9d	Action
Public Comment Allowed:	Yes	
Topic:	Request to open OAR 736-050-0260 Committee Procedures for Review and Approval of Nominations to the National Register	
Presented by:	Chris Havel	

On October 21, 2021, an online meeting of the State Advisory Committee on Historic Preservation (SACHP) was interrupted when a public attendee began typing racial and homophobic slurs, directed at members of the committee. The meeting was open to the public, as required by Oregon Administrative Rule 736-050-0260(9). The staff administrator ended the meeting and the matter was referred to the Oregon State Police, who are conducting a criminal investigation, and the Oregon Department of Justice Bias Incident Hotline.

The public meeting is a necessary step in state consideration of nominations to the federal National Register of Historic Places. By rule, after the nomination is presented to the SACHP by the National Register Program Coordinator, public comment must be taken during the meeting. To protect the health and safety of committee members as they fulfill their duty to consider nominations to the National Register, the Oregon Parks and Recreation Department requested a temporary change to administrative rules to allow the committee chair to accept public comments during the meeting in writing, designating the OPRD staff meeting administrator to receive the comments and display them for the committee members' consideration. Comments not material to the nomination would not be displayed.

In November 2021, the Commission adopted the temporary amendment active for up to 180 days. Without action, the rule language would revert to its prior form on May 16, 2022. In order for the temporary rule language to become permanent, the agency must open the proposed amendment for public comment and follow the rule adoption process.

The SACHP has met twice after implementation of the temporary rule. Staff and committee members felt the temporary rule worked well to ensure public participation in the review process while protecting the health and safety of committee members considering National Register nominations. Committee members have requested this rule change become permanent.

Prior Action by Commission: Adoption of temporary rule change to OAR 736-050-0260(9) as agenda item 9e at the November 2021 Commission meeting.

Action Requested: Staff request permission to open rulemaking on amendments to OAR 736-050-0260(9) to make temporary changes to public comment process for SACHP permanent.

Attachments: Attachment A Marked Copy

Prepared by: Chris Havel and Katie Gauthier

9d: Attachment A: Marked Copy
OAR 736-050-0260

(1) The committee must review all National Register nomination forms except for those prepared under OAR 736-050-0250(19)(a)(A) to (E) and when a CLG objects to a National Register nomination form as provided under OAR 736-050-0250(13).

(2) The committee must make a recommendation to the SHPO whether the National Register nomination form meets the following criteria:

(a) All procedural requirements are met;

(b) The National Register nomination form is adequately documented;

(c) The National Register nomination form is technically and professionally correct and sufficient; and

(d) The National Register nomination form demonstrates that the nominated property meets the National Register criteria for evaluation.

(3) Neither the SHPO nor the committee chairperson or vice chairperson will consider a National Register nomination form submitted after the opening of the public comment period.

(4) The owner(s) and chief elected official may waive the CLG comment opportunity described in OAR 736-050-0250(13) by each submitting a written statement to the SHPO at least 15 calendar days before a scheduled committee meeting. The remaining provisions of OAR 736- 050-0250 must be met.

(5) Committee members must disclose actual and potential conflicts of interest in accordance with ORS 244.120 to ORS 244.130.

(6) Committee members must not recuse themselves for a potential conflict of interest.

(7) A quorum of 5 committee members are required to conduct business. The committee retains a quorum if by the removal of committee members for declared actual conflicts of interest the committee falls below 5 present, voting committee members.

(8) For each National Register nomination form presented to the committee, the National Register Program Coordinator must provide a summary of:

(a) The argument presented in the National Register nomination form, and

(b) Public comment received prior to the committee meeting pursuant to OAR 736-050- 0250(12).

(9) The chairperson must call for comments from the proponent(s), opponent(s), and other interested parties present following the National Register Program Coordinator's presentation. The ~~total time allowed for comments must be determined by the chairperson or by practices adopted by comments~~ must address one or more of the criteria in section (2) and may suggest an action under section (11). The total time allowed for comments must be determined by the chairperson or

by practices adopted by the committee. Notwithstanding OAR 736-050-0250(12), the chairperson may direct that comments provided under this section be submitted in writing to the ~~committee assistant~~ designated Oregon Parks and Recreation Department staff who will provide the comments to the committee.

(10) The SHPO, Deputy SHPO, Associate Deputy SHPO, and Oregon SHPO staff may participate in committee discussions, but are not voting committee members.

(11) The committee must take one of the following actions when considering a National Register nomination form based on the committee's deliberations and comments received during the public comment period:

(a) Recommend that the SHPO find that the National Register nomination form meets the criteria in subsections (2)(a) to (d) as presented to the committee with no revisions;

(b) Recommend that the SHPO find that the National Register nomination form meets the criteria in subsections (2)(a) to (d) after making less than a major revision(s) to the National Register nomination form;

(c) Defer making a recommendation until a future committee meeting to allow the proponent to make revision(s) or for any other reason deemed appropriate by the committee related to the criteria in subsections (2)(a) to (d); or

(d) Recommend that the SHPO find that the National Register nomination form does not meet the criteria in subsections (2)(a) to (d). The committee must provide reasons for the recommendation. The committee may re-consider a recommendation at a later committee meeting after the SHPO determines that the proponent resolved the committee's objections.

(12) The committee must defer making a recommendation until a future committee meeting if the National Register nomination form requires a major revision.

(13) The SHPO must take action on a National Register nomination form reviewed by the committee as described in 36 CFR § 60.6(k) to (w) (2020).

(14) The committee may provide courtesy comments on a National Register nomination form submitted to the Oregon SHPO by a federal agency or Tribe for properties administered by a federal agency or on lands held in trust by the United States of America on behalf of a Tribe or an individual allotment held by a tribal member. Reviews completed under section (14) are subject to the procedures described in OAR 736-050-0260(2)(b), (c), and (d), and sections (3), and (5) through (10).

STATUTORY/OTHER AUTHORITY: ORS 358.617

STATUTES/OTHER IMPLEMENTED: ORS 358.622(2)

Oregon Parks and Recreation Commission

April 14, 2022

Agenda Item:	9e	Information
Public Comment Allowed:	Yes	
Topic:	Upcoming Rulemaking, Scenic Bikeways, OAR 736-009-025, 0030	
Presented by:	Chris Havel	

The Oregon State Scenic Bikeway program was established in 2009 by Cycle Oregon, the Oregon Parks and Recreation Department, Travel Oregon, and the Oregon Department of Transportation. It now includes the state’s best 17 designated mostly-roadway bicycle routes to showcase our breathtaking landscapes, cultural treasures, and western hospitality.

The Oregon Parks and Recreation Department has signed an agreement with Cycle Oregon to share responsibility for the State Scenic Bikeway Program. The program has been largely dormant since 2020.

At its most basic:

1. Local proponent groups research and propose routes.
2. A committee, appointed by the OPRD Director, evaluates the candidates and negotiates changes then forwards recommendations to the director, who then decides whether to bring them to the commission for adoption. The committee includes volunteers and representatives from Travel Oregon, the Oregon Department of Transportation, and other public agencies.
3. After a bikeway is designated, the department and committee work with other partners to distribute signage and continue working with proponents and state and local transportation officials to maintain the routes. Travel Oregon plays a substantial role in promoting the system.

The program is guided by administrative rules (see Attachment A). Over the course of the coming months, Cycle Oregon and OPRD will execute the agreement both to restart the program and take it to new, grander heights of public service thanks to the nonprofit’s expertise in promoting outdoor bicycle recreation and flexibility to seek financial and other kinds of supports from commercial and noncommercial partners. As the handoff proceeds, OPRD staff may return to the commission to request amendments to the rules to ensure Cycle Oregon’s success.

Prior Action by Commission: Adoption of scenic bikeway routes at several previous meetings.

Action Requested: None.

Attachments: Attachment A current rules.

Prepared by: Chris Havel

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;
- (C) A representative of a Federal lands management agency; and
- (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.

(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 committee may recommend that the department improve, remove, or reroute portions of a route no longer meeting the criteria for an Oregon Scenic Bikeway.

Statutory/Other Authority: ORS 390.971(8)

Statutes/Other Implemented: ORS 390.956, 390.959, 390.962, 390.968 & 390.971

History: PRD 2-2016, f. & cert. ef. 5-2-16, PRD 21-2009, f. & cert. ef. 12-8-09, PRD 7-2008, f. & cert. ef. 9-15-08

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.

(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.

(5) 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.

(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.

(f) 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.

(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.

(d) After the public meetings required in subsection (b) 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.

(7) 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. 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 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.

Statutory/Other Authority: ORS 390.971(8)

Statutes/Other Implemented: ORS 390.956, 390.959, 390.962, 390.968 & 390.971

History: PRD 2-2016, f. & cert. ef. 5-2-16, PRD 21-2009, f. & cert. ef. 12-8-09, PRD 7-2008, f. & cert. ef. 9-15-08

Oregon Parks and Recreation Commission

April 12, 2022

Agenda Item: 10a(i)

Information

Topic: Contracts and Procurement Report

Presented by: Daniel Killam, Deputy Director of Administrations

The attached report includes:

- 2 New agreements for a total of \$276,934
- 8 New contracts for total of \$1,953,854
- 9 Amendments for a total of \$79,512

Action Requested: None

Attachments: 10a(i) Attachment A Contracts and Procurement

Prepared by: Bryant Hayes

OREGON PARKS AND RECREATION DEPARTMENT

**Procurement Report
January and February 2022**

Executed	Contractor	Location	Project	FIP	Original Contract \$	Current Amend-ment	Amend-ments To Date	Current Contract Value	Comments	Commision Approval Date (Req'd if Greater than \$500,00)
GOODS AND/OR SERVICES CONTRACTS										
01/07/22	Deere and Company	La Pine State Park in Deschutes County	Gator Replacement		\$12,949			\$12,949	New Contract	
12/28/22	Northwest Watershed Restoration LLC	Sitka Sedge State Natural Area in Tillamook County	Vegetation Removal and Habitat Restoration		\$59,733			\$59,733	New Contract. Notice to Proceed was not issued until the permit was received on 1/12/22.	
01/24/22	Central Oregon Bungee Adventures, LLC	Peter Skene Ogden State Scenic Viewpoint in Deschutes and Jefferson Counties	Bungee jumping concession		\$130,000	\$0	\$0	\$130,000	Amendment 2 extends the term, and revises periods of operation and compensation.	
02/14/22	Caracal Enterprises LLC doing business as VenTek International,	Statewide	Fee machines		\$1	\$0	\$0	\$1	Amendment 6 extends the term of price agreement.	
02/24/22	Northwest Watershed Restoration LLC	Sitka Sedge State Natural Area in Tillamook County	Vegetation Removal and Habitat Restoration		\$59,733	\$8,420	\$8,420	\$68,153	Amendment 1 increases funding.	
PERSONAL SERVICES CONTRACTS										
01/11/22	Economic Consultants Oregon, Ltd.	Statewide	Economic impact study		\$50,000			\$50,000	New Contract	
PUBLIC IMPROVEMENTS CONTRACTS										
02/15/22	The Saunders Company, Inc.	Silver Falls State Park in Marion County	Water Reservoir Replacement Project	X	\$767,625			\$767,625	New Contract	11/17/2021
02/08/22	MJ Hughes Construction, Inc.	Detroit Lake State Recreation Area in Marion County	Water Reservoir Replacement Project	X	\$659,330			\$659,330	New Contract	9/15/2021
ARCHITECTURAL AND ENGINEERING SERVICES CONTRACTS										
01/11/22	Valley Science and Engineering, Inc.	Vista House, Crown Point State Scenic Corridor in eastern Multnomah County	Sewage Treatment Upgrade Design	X	\$23,000	\$13,000	\$13,000	\$36,000	Amendment 5 increases compensation and adds services.	
01/25/22	Parametrix, Inc.	Smith Rock State Park in Deschutes County	Pedestrian bridge design and permitting assistance	X	\$45,287	\$18,812	\$18,812	\$64,099	Amendment 1 increases compensation and adds services.	
02.22/22	Moore Iacofano Goltsman, Inc.	Statewide	Accessibility Standards and Guidelines		\$99,999			\$99,999	New Contract	
01/25/22	PBS Engineering and Environmental, Inc.	Tryon Creek State Natural Area in Clackamas and Multnomah Counties	Finalize design plans for the Tryon Creek to Marshall Park Trail	X	\$270,918			\$270,918	New Contract	
03/01/22	KPFF, Inc.	Nehalem Bay State Park in Tillamook County	Nehalem Bay boat ramp sewer lift station replacement design	X	\$33,300			\$33,300	New Contract	
ARCHITECTURAL AND ENGINEERING SERVICES CONTRACTS (RELATED SERVICES)										
01/10/22	Willamette Cultural Resource Associates, LTD	Farewell Bend State Park in Baker County	Cultural resources investigations	X	\$19,283	\$19,280	\$19,280	\$38,563	Amendment 1 increases services and compensation.	
1/12/2022	Willamette Cultural Resource Associates, LTD	Farewell Bend State Park in Baker County	Cultural resources investigations	X	\$19,283	\$0	\$19,280	\$38,563	Amendment 2 extends term of contract.	
INTERGOVERNMENTAL AGREEMENTS										
01/11/22	Oregon Department of Transportation	Statewide	Statewide Non-NBI Bridge Inspections	X	\$20,000	\$20,000	\$100,000	\$120,000	Amendment 5 extends the contract end date and increases funding.	
01/27/22	Oregon Water Resources Department	Statewide	Oregon Scenic Waterways Program		\$206,934			\$206,934	New Agreement	
02/04/22	Department of Administrative Services, Enterprise Information Services, Data Governance & Transparency, Geospatial Enterprise Office	Statewide	Statewide Recreation GIS Data Development Project		\$70,000			\$70,000	New Agreement	
02/07/22	Department of Corrections	Statewide	Inmate work crews		\$1	\$0	\$0	\$1	Amendment 4 extends the contract end date.	

Oregon Parks and Recreation Commission

April 14, 2022

Agenda Item:	10 a (ii,iii)	Information
Public Comment Allowed:	Yes	
Topic:	Actions taken under Delegated Authority from February 1, 2022 through March 31, 2022	
Presented by:	Guy Rodrigue, Central Park Resource Manager	

Pursuant to a duly adopted delegation order, and acting in accordance therewith, the Director, or her designee, has approved the following actions on behalf of the Oregon Parks & Recreation Commission:

SCENIC WATERWAYS NOTIFICATION

On February 22, 2022, a Notification of Intent 9-419-22 was approved for OPRD for a salvage timber harvest of 4.9 acres out of 74.5-acre ownership within the Clackamas River Scenic Waterway. The harvest was approved to help facilitate the restoration of the salvage acres back to an Oak savanna plant community. The salvage unit can not be viewed from the river due to the terrain. No new roads will be constructed and will be reforested with hundreds of 10 different native brush species, Oregon White Oak and Ponderosa pine bareroot seedlings.

On March 1, 2022, a Notification of Intent 21-1-22 was approved for Rolf & Linda Vognild for a salvage timber harvest thinning of 41 acres out of 46-acre ownership parcel within the Molalla River Scenic Waterway. The harvest was approved to help facilitate the restoration of the property which burned 90% of the property from the Labor Day Beachie Creek fire. A 20' leave buffer will be required and will be leaving all hardwoods on the property. No new roads will be constructed and property will be reforested with Douglas-fir and Western red cedar seedlings.

OCEAN SHORES ALTERATION DECISIONS

On March 21, 2022, Ocean Shore Sand Alteration Permit #2998-21 was denied for applicant Jon Reimann to conduct foredune management activities on 2.9 acres of land over nine oceanfront properties in the City of Manzanita. The project proposed to grade and relocate approximately 9,761 cubic yards of sand along approximately 550 linear feet of the Ocean Shore in accordance with the Manzanita Foredune Management Plan. The request also included future dune maintenance activities for a period of up to 15 years after project completion. The subject properties are further identified on Tillamook County Assessor's Map #3N-10W-32BD as tax

lots 5700, 5801, 5802, 6603, 6601, 6600, 6602, 70001, and 70002. The denial was based primarily on three factors: 1) an overall lack of project need for the dune grading activities to occur on land presumed to be dedicated to public right-of-way; 2) available alternatives for addressing the public safety and public access concerns via other sand alterations measures; and 3) overwhelming and unanimous public opposition to the proposed project.

On March 28, 2022, Ocean Shore Access Way Alteration Permit #3000-22 was approved for Bill Campbell to permit an existing staircase access way and protective pylon structures (protective barrier for stairs) off of the western end of Carnahan Avenue in Arch Cape. The existing pylon structures will also be replaced with a new 7' 10" W x 5' 11" L galvanized steel plate, four 10" stainless steel tubes, two 8" stainless steel tubes, and connecting 4" stainless steel rectangular tube, as part of this project. The subject property is Clatsop County road right-of-way, further identified on Clatsop County Assessor's Map T4N, R10W, Section 19CB, Tax Lot N/A.

TIMBER HARVEST REVENUE

Prior Action by the Commission: None

Action Requested: None

Attachments: None

Prepared by: Central Park Resource Section Staff

2022

Oregon Parks and Recreation Commission DRAFT - Planning Dates

January

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2022 Commission Meeting

February - Virtual
 April - TBD
 June - Wallowa
 September - Gorge
 November - TBD
 *All dates could change to virtual

Contact: Denise Warburton 503-779-9729

Revision Date: 01/9/22

Huddle Meetings
Packet Materials DUE!
Agenda & Packet Posted to OPRD Site
Mail Out Packets
State Holidays
Presentation Material Due/Business Meeting
All Managers Meeting
Leadership Group Meeting
Legislative Days
Legislative Session February 1st - March 7th