



# Oregon

Kate Brown, Governor

## Department of State Lands

775 Summer Street NE, Suite 100

Salem, OR 97301-1279

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FAX (503) 378-4844

[www.oregon.gov/dsl](http://www.oregon.gov/dsl)

### State Land Board

Kate Brown  
Governor

Bev Clarno  
Secretary of State

Tobias Read  
State Treasurer

## **STATE LAND BOARD**

**August 11, 2020**

**10:00 am – 12:00 pm**

**Teleconference Meeting**

**The meeting audio will be livestreamed on the  
[Department of State Lands YouTube Channel](#)**

## **AGENDA**

### **Consent Items**

1. Request for approval of the minutes of the June 9, 2020, State Land Board Meeting.

### **Action Items**

2. Request to authorize the exchange of deeds with VCRAF PGIM Raptor LLC to clear title of former Willamette River channel land and to establish State boundary ownership of the beds and banks of the River.
3. Request for approval to permanently adopt OAR 141-088-0230, Restrictions for the State-Owned Property of the Columbia River and Oregon Slough.

### **Informational Items**

4. DAS Hillcrest Mineral Release in Marion County
5. Other

Meeting audio will be livestreamed at:

<https://www.youtube.com/channel/UCQA7FHTWwl-gjJkQeYPJ1IA>

*Continued on next page*

*If you need assistance to participate in this meeting due to a disability, please notify Arin Smith at (503) 986-5224 or [arin.n.smith@state.or.us](mailto:arin.n.smith@state.or.us) at least two working days prior to the meeting.*

**Public Testimony** - The State Land Board places great value on information received from the public. The Board accepts comments on **consent and action agenda items only**.

**Providing Public Testimony During Teleconference Meetings** – When the Board meets via teleconference, the public may submit written testimony to be read aloud during the meeting, time permitting and at the discretion of the Chair. Testimony may be submitted before or during the meeting.

Email testimony to: [landboard.testimony@state.or.us](mailto:landboard.testimony@state.or.us)

When providing testimony for a teleconference meeting, please:

- Include your name, organizational affiliation (if any).
- Indicate which consent or action agenda item your testimony relates to
- Indicate if you would like your testimony read aloud during the teleconference.  
Testimony that exceeds the standard time limit of three minutes per individual may not be read in its entirety.
- If you are submitting testimony while the meeting is in progress, please do so before the agenda item your testimony relates to is discussed.

Please note: The standard time limit is three minutes for each individual. The Board cannot accept testimony on a topic for which a public hearing has been held and the comment period has closed.



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The State Land Board (Land Board or Board) met in regular session by teleconference on June 9, 2020. The meeting audio was livestreamed on the DSL YouTube channel.

### State Land Board

#### Present were:

Kate Brown

Governor

Kate Brown

Governor

Bev Clarno

Secretary of State

Bev Clarno

Tobias Read

State Treasurer

Secretary of State

#### Land Board Assistants

Jason Miner

Governor's Office

Tobias Read

Andrea Chiapella

Secretary of State's Office

State Treasurer

Ryan Mann

State Treasurer's Office

#### Department Staff

Vicki Walker

Bill Ryan

Jean Straight

Arin Smith

#### Department of Justice

Matt DeVore

Governor Brown called the meeting to order at 10:07 a.m. The topics discussed and the results of those discussions are listed below. To view the Land Board (Board) meeting in its entirety, please visit our YouTube page: <https://www.youtube.com/watch?v=Tj7MikepRFw&t=9s>

### Consent Items

#### 1. Minutes

#### 2. Request for approval to initiate the review and determination of the exchange of surface ownership in Harney County.

The Department recommended the State Land Board authorize the Department to initiate the review and determination for the potential land exchange of properties in Harney County located at Township 24 South, Range 32.5 East, Sections 4 and 5, Tax Lots 1500 and 1800.

#### 3. Request for approval to initiate the review and determination of the purchase of 1.7 acres at the primary entrance to the South Slough National Estuarine Research Reserve in Coos County.

The Department recommended the Land Board authorize the South Slough National Estuarine Research Reserve through the Department of State Lands' Real Property staff to

complete due diligence reports in support of acquiring two tax lots totaling 1.7 acres adjacent to the entrance of the South Slough Reserve Visitor Center.

Treasurer Read made a motion to approve consent items one, two, and three. There were no objections to the motion. The items were approved at 10:16 a.m.

### **Action Items**

#### **4. Request for approval of permanent easement for a bridge across Bear Creek in Coos County. (Charles Fellows Road)**

Department staff recommended the State Land Board approve a permanent easement to Coos County, 25978-EA, to maintain and operate a bridge on, over, under or across Bear Creek.

Treasurer Read made a motion to approve Action Item 4. Secretary Clarno seconded the motion. The item was approved at 10:20 a.m.

#### **5. Request for approval of permanent easement for a bridge across Bear Creek in Coos County. (Parkersburg Road)**

Department staff recommended the State Land Board approve the permanent easement to Coos County, 42135-EA, an easement to maintain and operate a bridge on, over, under or across Bear Creek.

Treasurer Read made a motion to approve Action Item 5. Secretary Clarno seconded the motion. The item was approved at 10:22 a.m.

#### **6. Department of State Lands Budget Request**

Director Walker introduced Deputy Director Jean Straight to present the Agency Request Budget and recommendation.

The Department of State Lands recommended the Land Board approve submission of the Department's 2020-23 Agency Request Budget, including policy packages 101-113 to the Department of Administrative Services.

Treasurer Read made a motion to approve the recommendation to submit the agency request budget. Secretary Clarno seconded the motion. The item was approved at 10:32 a.m.

#### **7. Oregon Department of Forestry Budget Request**

Peter Dougherty, State Forester/Director and Liz Dent, Division Chief, both with Oregon Department of Forestry, presented their budget request.

The Department of Forestry and the Department of State Lands recommended the State Land Board approve the submission of ODF's 2021-2023 Current Service Level CSFL Budget to the Department of Administrative Services as part of the Department's total budget, with recognition that there may be policy option packages that will cause an increase to ODF's Agency Request Budget.

Questions were taken from the Board.

Treasurer Read made a motion to approve Action Item 7.  
Secretary Clarno seconded the motion.  
The item was approved at 10:43 a.m.

### **Informational Items**

8. **Real Property Annual Report**  
10:44 a.m.

Bill Ryan, Deputy Director of Department of State Lands presented the Real Property Annual Report.

The primary purpose of this report was to provide the State Land Board a year-end summary of the financial performance of the Common School Fund (CSF) trust lands under the Department of State Lands' oversight. Included in the summary were the overall revenues and expenditures associated with these lands, which were the result of a broad range of real property management activities including leases, easements, licenses, special uses, and land sales and exchanges. This annual report presented outcomes from the 2019 fiscal year (July 1, 2018 to June 30, 2019), and included discussion of future real property management direction and priorities.

9. **Common School Fund Annual Report**  
10:50 a.m.

Director Walker introduced Michael Viteri, Senior Investment Officer with Oregon State Treasury to present the Common School Fund annual report.

The purpose of the report was to provide the Board with a year-end summary for FY 2019

10. **Oregon Water Resources Department Mineral Release**  
11:20 a.m.

Because all due diligence efforts and reports conducted by OWRD are submitted to DSL, this item was brought to the Board as an informational item. Once a Department of Geology and Mineral Industries (DOGAMI) mineral potential report has been completed and the Department's review is complete, the Department will submit a recommendation to the Land Board on whether or not to release the minerals.

## 11. Other

Director Walker gave the Land Board and Public the following updates:

- The 2020 Land Board Awards ceremony was postponed to the next in-person meeting.
- There were three recent land sales that contributed several million dollars to the Common School Fund:
  - Stevens Road 22M
  - Millican Road 4.5M
  - Helvetia 4.45M

The meeting was adjourned at 11:28 a.m.

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Kate Brown, Governor

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Vicki L. Walker, Director



# Oregon

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### State Land Board

## State Land Board

**Regular Meeting**  
**August 11, 2020**  
**Agenda Item 2**

Kate Brown  
Governor

Bev Clarno  
Secretary of State

Tobias Read  
State Treasurer

### **SUBJECT**

Request for authorization to exchange deeds and issue quitclaim deeds to clear title to formerly submerged and submersible land with VCRAF PGIM Raptor LLC and adjacent land owners as applicable for former Willamette River Channel that has naturally moved through accretion over a period of years in Benton County, LAS Application #62562.

### **ISSUE**

Whether the State Land Board should authorize the exchange of deeds and issuance of quitclaim deeds with VCRAF PGIM Raptor LLC and adjacent landowners to clear title of former Willamette River channel land and to establish state boundary ownership of the beds and banks of the River. (Appendix A).

### **AUTHORITY**

- Oregon Constitution, Article VIII, Sections 2 and 5; pertaining to the Common School Fund and land management responsibilities of the State Land Board.
- ORS 273.055; relating to the power to acquire and dispose of real property.
- ORS 273.171; relating to the duties and authority of the Director.
- ORS 273.780; relating to the retention of mineral rights.
- ORS 274.025; relating to ownership of submerged and submersible lands of navigable streams and lakes.
- ORS 274.402; relating to jurisdiction to assert title to submerged or submersible lands in navigable waterways.
- OAR 141-067; relating to the sale, exchange, and purchase of state land.
- OAR 141-067-0155(11) relating to clearing title to lands that were formerly submerged and submersible lands.

- OAR 141-067-0195 relating to resolving ownership of formerly submerged and submersible lands.
- OAR 141-067-0300 relating to resolving claims to formerly submerged or submersible lands.
- Real Estate Asset Management Plan (REAMP), adopted by the Land Board; February 2012.

## **SUMMARY**

When the state was created in 1859, the state was granted the bed and banks of all navigable rivers to protect the public uses of navigation, fisheries, and recreation on the state's rivers. When a river channel moves gradually over time (through natural accretion), the state's ownership generally moves with the shoreline but leaves behind formerly submerged and submersible land with unclear title.

The focus of this agenda item relates to the Willamette River in Benton County at Township 13 South, Range 4 West, Sections 17, 18 & 19 and at Township 13 South Range 5 West, Section 24. A representative for VCRAF PGIM Raptor LLC approached the Department requesting consideration to exchange formerly submerged and submersible land for what is today segments of the Willamette River. A review of the historical records, including historical maps and more modern aerial photos, shows the course of the Willamette River, at this location, shifted over time through natural accretion. Based on historical information, the state retains ownership of the bed and banks of the main channel of the Willamette River and a back channel, Albany Channel/Slough. The state does not have a claim of ownership to the former channels of the Willamette River that are now dry upland. Approximately 80% of the state's ownership in this area is to the line of ordinary low water. Therefore, it is recommended the exchange be to the ordinary low water line of the Willamette River.

## **RECOMMENDATION**

The Department recommends the State Land Board authorize an exchange of deeds and issuance of quitclaim deeds with VCRAF PGIM Raptor LLC and other adjacent land owners as applicable to consistently establish the state's ownership of land lying below the Ordinary Low Water line in the main channel of the Willamette River and in the Albany Channel/Slough, and to remove the cloud of title for VCRAF PGIM Raptor LLC and adjacent land owners as to the formerly submerged and submersible lands from the former channel.

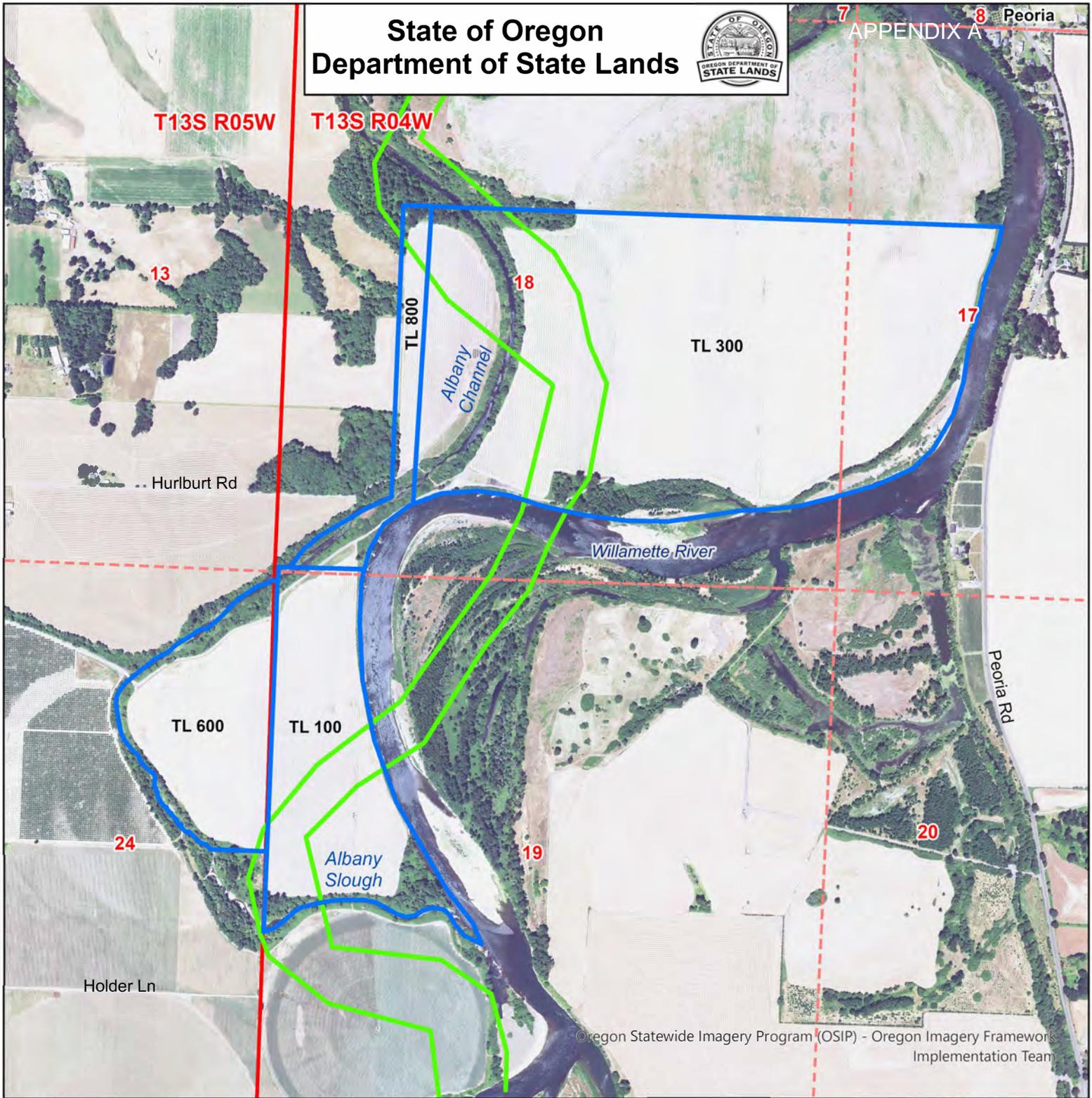
## **APPENDIX**

A. Map of Property

# State of Oregon Department of State Lands



7 APPENDIX A 8 Peoria



Oregon Statewide Imagery Program (OSIP) - Oregon Imagery Framework Implementation Team

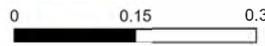
## EXHIBIT A: 62562-LE

VCRAF PGIM Raptor LLC Land Exchange  
T13S R04W, Sec. 17, 18 and 19; T13S R05W, Sec. 24  
Map and tax lots: 13 4 18 TL 300 and 800,  
13 4 19 TL 100 and 13 5 24 TL 600

Benton County

- Applicant's Tax Lots
- Approximate Willamette River Former Main Channel
- Township and Range
- Section

This map depicts the approximate location and extent of a Department of State Lands exchange area. This product is for informational purposes only and may not have been prepared for, or be suitable for, legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.



2018 Aerial Photo  
Map Projection:  
Oregon Statewide Lambert  
Datum NAD83  
International Feet  
State of Oregon  
Department of State Lands  
1645 NE Forbes Rd, Suite 112  
Bend, OR 97701  
541-388-6112  
[www.oregon.gov/DSL](http://www.oregon.gov/DSL)  
Date: 7/2/2020





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### State Land Board

## State Land Board

**Regular Meeting  
August 11, 2020  
Agenda Item 3**

Kate Brown  
Governor

Dennis Richardson  
Secretary of State

Tobias Read  
State Treasurer

### **SUBJECT**

Request for approval to permanently adopt OAR 141-088-0230, Restrictions for the State-Owned Property of the Columbia River and Oregon Slough. This rule would enact public use restrictions on state-owned land along the Columbia River from river miles 102 to 106 (Hayden Island to the north side and Marine Drive to the south side) and river mile 120 to 121 (Sandy River Delta), and along the Oregon Slough from river miles 0 to 2.5 (also known as the North Portland Harbor Channel)

### **ISSUE**

Whether the Land Board should approve the restrictions on the public recreational use of state-owned banks of the Columbia River and the Oregon Slough within the City of Portland.

### **AUTHORITY**

The Oregon Constitution, Article VIII, Section 5, specifies that the State Land Board is responsible for managing Common School Fund lands.

ORS 274.025; describes state jurisdiction over submersible and submerged lands generally.

ORS 273.041 to 273.071; authorizes the Department of State Lands to exercise the administrative functions of the State Land Board; relating to the general powers and duties of department and board.

OAR 141-088; relates to the public recreational use of state-owned property and provides the Department, in consultation with the State Land Board, authority to restrict the use of state-owned lands when the closure is necessary to protect human life, health, or safety; to prevent loss of, or damage to property; to protect natural, historical, cultural, or archeological resources; or to prevent damage to the environment.

## **BACKGROUND**

Since 2018, the Port of Portland and the Department of State Lands have received numerous calls from the public highlighting concerns regarding public use of state lands along the Columbia River and the Oregon Slough in Portland, Oregon. The Department and the Port have documented illegal or nuisance activity on state-owned land, including:

- Offensive littering and dumping;
- Reckless burning and open fires;
- Damage to riparian vegetation and wildlife habitat;
- Unseaworthy, or derelict boats and vessels;
- Harassment, interference, and damage to property; and
- Diminished public safety and recreational opportunities.

The Department received multiple requests to enact closures, one from Don Larson of the Waterfront Organizations of Oregon (July 28, 2019), and the second from Nicole Miranda of the Port of Portland (August 14, 2019). In response, the Department enacted temporary emergency restrictions along the Columbia River from river miles 102 to 106 (Hayden Island to the north side and Marine Drive to the south side) and river mile 120 to 121 (Sandy River Delta), and along the Oregon Slough from river miles 0 to 2.5 (also known as the North Portland Harbor Channel) on August 22, 2019. These restrictions closed state-owned beaches in these areas to all uses between 10 pm and 5 pm, the establishment of any campsite, and fires

With the approval of the State Land Board in October 2019, the Department initiated the permanent rulemaking process in February 2020.

## **PUBLIC INVOLVEMENT**

### **Rules Advisory Committee (RAC)**

A RAC was convened remotely on May 13, 2020 to review and make comments on the proposed rule language and the fiscal impact statement. The following individuals served as members of the RAC:

- Matt Markstaller, Daimler

- Stan Tonneson, Waterfront Organizations of Oregon, Rocky Point Marina Owner
- Mary Jaron Kelly, North Portland Neighborhood Services
- Nicole Miranda, Port of Portland
- Willie Levenson, Human Access Project
- Don Larson, Class Harbor Association & Metro Abandoned and Derelict Vessel and Illegal Camping (MADVAC) work group member

## **Public Notice**

After the RAC meeting concluded and the Notice of Proposed Rulemaking was filed, the Department sent a news release and MailChimp notice to interested parties, stakeholders, and local media outlets.

The Department also notified House Speaker Kotek and Senate President Courtney of the rulemaking, as well as Representative Gorsek, Representative Williams, Senator Frederick, Senator Monnes Anderson, and Senator Thomsen, who each represent areas included in the proposed closure areas.

## **Public Hearings**

The Department held one public hearing on the proposed rules. The hearing was held remotely by Zoom on June 17, 2020, to comply with Governor Brown's "Stay Home, Save Lives" executive order. Two members of the public participated, and no comments were provided on the proposed rule.

In total, the Department received nine (9) comments on the proposed rule, which are shown in detail along with the agency's responses in Appendix C.

## **RECOMMENDATION**

The Department recommends the Land Board move to adopt the proposed rule, OAR 141-088-0230, to prohibit the public recreational use of state-owned property between 10 p.m. and 5 a.m., the establishment of a campsite at any time, and fires at any time along areas of the Columbia River and the Oregon Slough. If adopted, the proposed rule will go into effect on September 21, 2020.

## **APPENDICES**

- A. Final Rules
- B. Notice of Proposed Rulemaking including the Statement of Need, Fiscal Impact Statement, and Draft Rules

- C. Public Comments and DSL Responses
- D. Maps of the Proposed Closure Areas

[Chapter 141](#)

Division 88

RULES GOVERNING THE ESTABLISHMENT OF RESTRICTIONS ON THE PUBLIC RECREATIONAL USE OF STATE-OWNED LAND

[141-088-0000](#)**Purpose and Applicability**

These rules:

- (1) Govern the establishment of restrictions on the public recreational use of state-owned Trust and Non-Trust Land managed by the Department of State Lands (Department).
- (2) Are in addition to those contained in OAR 141- 082 (Rules Governing the Management of, and Issuing of Leases, Licenses, Temporary Use Permits and Registrations for Structures on, and Uses of State-Owned Submerged and Submersible Land) which govern the imposition of restrictions on the use of, and closures of state-owned submerged and submersible land for activities subject to authorization by the Department.
- (3) Identify areas of state-owned land managed by the Department for which restrictions on public recreational use have been established by rule.
- (4) Do not govern the establishment of restrictions on, or closure to the public recreational use of state-owned land administered by the Department of State Lands within the South Slough National Estuarine Research Reserve.

**Statutory/Other Authority:** ORS 183, 273 & 274**Statutes/Other Implemented:** ORS 273 & 274**History:**

DSL 5-2009, f. &amp; cert. ef. 6-23-09

DSL 2-2004, f. &amp; cert. ef. 6-11-04

DSL 9-1998, f. &amp; cert. ef. 10-15-98

[141-088-0002](#)**Definitions**

- (1) "Asset Management Plan" is the plan adopted by the State Land Board that provides the policy direction and management principles to guide both the short and long-term management by the Department of the Common School Fund's real estate assets.
- (2) "Department" means the Department of State Lands.
- (3) "Director" means the Director of the Department of State Lands or designee.
- (4) "Emergency" means a human created or natural event or circumstance that causes or threatens:
  - (a) Human life, health or safety;
  - (b) Loss of, or damage to property;
  - (c) Loss of, or damage to natural, historical, cultural or archaeological resources; or
  - (d) Damage to the environment.
- (5) "Firearm", as defined in ORS 166.210(3), means a weapon, by whatever name known, which is designed to expel a projectile by the action of powder.
- (6) "Limited Duration" means a public recreational use of state-owned land that does not exceed 30-calendar days in the same location.

(7) “Non-Trust Land” is land owned or managed by the Department other than Trust Land. Examples of Non-Trust Land include state-owned Swamp Land, and state-owned submerged and submersible land (land below ordinary high water) under navigable and tidally influenced waterways.

(8) “Person” includes individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies as well as any state or other governmental or political subdivision or agency, public corporation, public authority, or Indian Tribe.

(9) “Public Recreational Use” or “Public Recreational Uses” are those recreational activities that a person may conduct on state-owned land managed by the Department without having to obtain a prior authorization from the Department as required by these or other administrative rules adopted by the State Land Board. Such uses include, but are not limited to, limited duration hunting, fishing, sightseeing, wildlife observation, hiking, boating, swimming, camping and picnicking.

(10) “Removal” means a removal as defined in ORS 465.200.

(11) “Remedial Action” means a remedial action as defined in ORS 465.200.

(12) “State Land” or “State-Owned Land” is land owned or managed by the Department or its agents and includes Trust and Non-Trust Land.

(13) “Submerged Land” means land lying below the line of ordinary low water of all title navigable and tidally influenced waters within the boundaries of the State of Oregon.

(14) “Submersible Land” means land lying above the line of ordinary low water and below the line of ordinary high water of all title navigable and tidally influenced waters within the boundaries of the State of Oregon.

(15) “Trust Land” or “Constitutional Land” is all land granted to the state for the use of schools upon its admission into the Union, or obtained by the state as the result of an exchange of Trust Land, or obtained in lieu of originally granted Trust Land, or purchased with trust funds, or obtained through foreclosure of loans using trust funds.

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 2-2015, f. 5-6-15, cert. ef. 6-1-15

DSL 5-2009, f. & cert. ef. 6-23-09

**141-088-0004**

**General Provisions**

(1) All Trust and Non-Trust Land under the jurisdiction of the State Land Board and the Department is open and available for public recreational use provided that such use:

(a) Is legal under local, state and federal law;

(b) Is allowed under the Department’s Asset Management Plan;

(c) Does not, due to the nature or duration of the use, unnecessarily prevent other persons from using the same state-owned land; and

(d) Does not, as determined by the State Land Board or the Department:

(A) Substantially interfere with the use of land by persons holding a written authorization from the Department to use the subject site(s), parcel(s) or area(s);

(B) Pose a significant risk of harm or damage to the natural, cultural and archaeological resources of the land or to the public; or

(C) Substantially interfere with tribal treaty rights.

(2) Any person may request that the Department impose restrictions on public recreational use of state-owned land, or close state-owned land managed by the Department to public recreational use. A request must be in writing and must clearly state the reasons such a restriction or closure is necessary.

(3) The Department may also identify state-owned land on which it believes public recreational use should be restricted or that should be closed to public recreational use.

(4) Restrictions or closures by the State Land Board or the Director will be:

(a) Based on a determination that the action is necessary to:

(A) Protect human life, health or safety;

(B) Prevent loss of, or damage to property;

(C) Prevent loss of, or damage to natural, historical or archaeological resources;

(D) Prevent damage to the environment;

(E) Facilitate or protect a removal or remedial action undertaken by or pursuant to an order issued by the Oregon Department of Environmental Quality (DEQ) or the United States Environmental Protection Agency (EPA);

(F) Fulfill an objective of an area management plan developed by the Department; or

(G) Meet other land management objectives or terms of any use authorization granted by the Department.

(b) As limited in area, duration and scope as necessary to address the identified need for the restriction or closure.

(5) All restrictions or closures will be promulgated by the State Land Board except that the Director may impose a restriction or closure when the Director determines that:

(a) The restriction or closure is necessary to address an emergency; or

(b) The restriction or closure is necessary to facilitate or protect a removal or remedial actions undertaken by or pursuant to an order issued by the Oregon Department of Environmental Quality (DEQ) or the United States Environmental Protection Agency (EPA).

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 5-2009, f. & cert. ef. 6-23-09

### [141-088-0005](#)

#### **Restriction or Closure Request and Review Process**

(1) Upon receipt of a request to impose restrictions on, or close state-owned land to public recreational use, the Department will review the request to evaluate the need for the restriction(s) or closure.

(2) As a part of its review, the Department may:

(a) Determine if feasible alternative approaches exist to address the problem(s) for which the restrictions or closure is requested; and

(b) Contact, persons or groups likely to be impacted by the proposed restrictions or closure including, but not limited to, law enforcement officials, users of the subject site, area or parcel, and adjacent landowners.

(3) Following its review of the request, the Department will make a recommendation to the Director concerning whether to place the requested restrictions on the public recreational use of, or to close to such uses the state-owned land.

(4) Upon receipt of the Department's recommendation, the Director will determine whether the restriction or closure must be promulgated by the State Land Board pursuant to OAR 141-088-0006, or may be imposed by the Director pursuant to either OAR 141-088-0007 or 141-088-0008.

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 5-2009, f. & cert. ef. 6-23-09

**141-088-0006**

**Restrictions or Closures Adopted by the State Land Board**

(1) All restrictions or closures by the State Land Board will be promulgated as rules in accordance with ORS 183.310 to 183.410.

(2) The State Land Board will adopt the proposed restriction or closure to public recreational use if the Land Board determines:

(a) That the restriction or closure is necessary to:

(A) Protect human life, health or safety;

(B) Prevent loss of, or damage to property;

(C) Protect natural, historical, cultural or archaeological resources;

(D) Prevent damage to the environment;

(E) Facilitate or protect a removal or remedial action undertaken by or pursuant to an order issued by the Oregon Department of Environmental Quality (DEQ) or the United States Environmental Protection Agency (EPA) in pursuit of identifying and remediating contaminated soil or sediments on state-owned land;

(F) Fulfill an objective of an area management plan developed by the Department; or

(G) Meet other land management objectives or terms of a use authorization; and

(b) That there is no feasible alternative to accomplish that objective without imposition of a restriction or closure.

(3) Restrictions or closures adopted by the State Land Board will be as limited in area, duration and scope as necessary to address the identified need for the restriction or closure.

(4) If the State Land Board adopts a restriction or closure by rule the Department will:

(a) Notify affected local, state and federal government agencies and tribal governments, as well as other interested persons or groups that might be affected by the imposition of restrictions or a closure, or that have indicated that they want to be notified of such actions; and

(b) Post a notice of such proposed public use restrictions or closure at least four weeks before the time that the restrictions or closure is to take effect:

(A) One time in the Public Notices Section of The Oregonian and, if the Director deems appropriate, in another newspaper serving the general area in which the proposed restriction or closure is to occur; and

(B) On the Department's website upon imposition of the restrictions or closure at

<http://www.oregon.gov/DSL>

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 2-2015, f. 5-6-15, cert. ef. 6-1-15

DSL 5-2009, f. & cert. ef. 6-23-09

141-088-0007**Restrictions or Closures Imposed by the Director to Address an Emergency**

- (1) The Director may impose a restriction or closure in the event s/he determines that the restriction or closure is necessary to address an emergency.
- (2) Restrictions or closures imposed by the Director to address an emergency will be as limited in area, duration and scope as necessary to address the identified need for the restriction or closure.
- (3) If the Director imposes a restriction or closure, the Department will:
- (a) Notify affected local, state and federal government agencies and tribal governments, as well as other interested persons or groups that the Department believes might be affected by the imposition of restrictions or a closure, or that have indicated that they want to be notified of such actions; and
  - (b) Post a notice of such proposed public use restrictions or closure:
    - (A) One time in the Public Notices Section of The Oregonian and, if the Director deems appropriate, in another newspaper serving the general area of the subject restriction or closure within two weeks after the restrictions or closure take effect; and
    - (B) On the Department's website upon imposition of the restrictions or closure at <http://www.oregon.gov/DSL>

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 2-2015, f. 5-6-15, cert. ef. 6-1-15

DSL 5-2009, f. & cert. ef. 6-23-09

141-088-0008**Restrictions or Closures Imposed by the Director to Facilitate or Protect Removal or Remedial Actions**

- (1) The Director may impose restrictions on, or close state-owned land if the Director determines that the restriction or closure is necessary to facilitate or protect any removal or remedial action undertaken by or pursuant to an order issued by DEQ or EPA.
- (2) Restrictions or closures imposed by the Director will be as limited in area, duration and scope as necessary to address the identified need for the restriction or closure.
- (3) Before imposing a restriction or closure, the Department will provide a 30- calendar-day public comment period on the proposed restriction or closure. An affected party may request a public meeting with agency staff to be held during this 30-day period to discuss the proposed action.
- (4) Notice of this public comment period and the opportunity to request a public meeting with agency staff will be:
- (a) Sent to affected local, state and federal government agencies and tribal governments, as well as other interested persons that have indicated that they want to be notified of such actions; and
  - (b) Posted:
    - (A) One time in the Public Notices Section of The Oregonian and, if the Director deems appropriate, in another newspaper serving the general area one week before the start of the public comment period; and
    - (B) On the Department's website upon imposition of the restrictions or closure at <http://www.oregon.gov/DSL>
- (5) A restriction or closure imposed by the Director will not take effect until a date to be determined by the Director which must be at least four weeks following posting of a notice of the restriction or closure.

(6) If the Director imposes a restriction or closure the Department will:

(a) Notify affected local, state and federal government agencies and tribal governments, as well as other interested persons that have indicated that they want to be notified of such actions; and

(b) Post a notice of such proposed public use restrictions or closure at least four weeks before the time that the restriction or closure is to take effect:

(A) One time in the Public Notices Section of The Oregonian and, if the Director deems appropriate, in another newspaper serving the general area before the start of the restrictions or closure is to take effect; and

(B) On the Department's website at <http://www.oregon.gov/DSL>

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 2-2015, f. 5-6-15, cert. ef. 6-1-15

DSL 5-2009, f. & cert. ef. 6-23-09

**141-088-0009**

**Unauthorized Uses and Penalties**

(1) The unauthorized use of state-owned land managed by the Department constitutes a trespass.

(2) In addition to any other penalties provided or permitted by law, the Department may pursue whatever remedies are available under law to ensure that any use that is in violation with these rules is either brought into compliance with the requirements of these rules or other applicable law, or ceased or removed.

(3) In addition to any other penalty or sanction provided by law, the Director may assess a civil penalty of not more than \$1,000 per day of violation for violations of any provision of these rules or ORS 274 that occurs on state-owned submerged or submersible lands pursuant to ORS 274.992.

(4) The Director will give written notice of a civil penalty incurred under OAR 141-088-0009(3) by registered or certified mail to the person incurring the penalty. The notice will include, but not be limited to the following:

(a) The particular section of the statute or this rule involved;

(b) A short and clear statement of the matter asserted or charged;

(c) A statement of the party's right to request a hearing within 20 calendar days of the notice;

(d) The time allowed to correct a violation; and

(e) A statement of the amount of civil penalty which may be assessed and terms and conditions of payment if the violation is not corrected within the time period stated.

(5) The person incurring the penalty may request a hearing within 20 calendar days of the date of service of the notice provided in OAR 141-122-0130(3). Such request must be in writing. If no written request for a hearing is made within the time allowed, or if the party requesting a hearing fails to appear, the Director may make a final order imposing the penalty.

(6) In imposing a penalty under OAR 141-088-0009 of these rules, the Director will consider the following factors as specified in ORS 274.994:

(a) The past history of the person incurring a penalty regarding other trespasses on state-owned land managed by the Department;

(b) Any prior violations of statutes, rules, orders and authorizations pertaining to submerged and submersible land;

(c) The impact of the violation on public trust uses of commerce, navigation, fishing and recreation; and  
 (d) Any other factors determined by the Director to be relevant and consistent with the policy of these rules.

(7) Pursuant to ORS 183.090(2), a civil penalty imposed under OAR 141-088-0009 will become due and payable 10 calendar days after the order imposing the civil penalty becomes final by operation of law or on appeal.

(8) If a civil penalty is not paid as required by OAR 141-088-0009, interest will accrue at the maximum rate allowed by law from the date first due.

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 5-2009, f. & cert. ef. 6-23-09

#### 141-088-0010

##### **Restrictions for the State-Owned Property at Dibblee Point (Columbia River)**

All state-owned land that is under the jurisdiction of the Department in the area known as Dibblee Point or Slaughters Bar, between Columbia River Mile 64.0 and Columbia River Mile 66.0, lying between the Burlington Northern Railroad and the left bank of the Columbia River, west of the Longview Rainier Bridge, in Sections 1 and 12, Township 7 North, Range 3 West, and Sections 7 and 8, Township 7 North, Range 2 West, Willamette Meridian, in Columbia County, Oregon, is closed to all uses between 10 p.m. and 5 a.m.

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 2-2004, f. & cert. ef. 6-11-04

Reverted to LB 3-1989, f. & cert. ef. 5-18-89

DSL 5-1998(Temp), f. & cert. ef. 5-4-98 thru 10-28-98

LB 3-1989, f. & cert. ef. 5-18-89

LB 4-1988(Temp), f. & cert. ef. 11-7-88

#### 141-088-0020

##### **Restrictions for the State-Owned Banks of the McKenzie River Bar**

All state-owned land that is under the jurisdiction of the Department between the line of ordinary high water and line of ordinary low water along the north bank of the McKenzie River across from Armitage State Park, between River Mile 6.5 and River Mile 7.2, located in Sections 9 and 10, Township 17 South, Range 3 West, Willamette Meridian, in Lane County, Oregon, is closed to overnight camping and motor vehicles, except watercraft, between 10 p.m. and 5 a.m.

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 2-2004, f. & cert. ef. 6-11-04

LB 1-1992, f. & cert. ef. 3-9-92

LB 9-1991(Temp), f. 9-13-91, cert. ef. 11-1-91

[141-088-0035](#)**Restrictions for the State-Owned Banks of the Sandy River**

All state-owned land that is under the jurisdiction of the Department that is between the line of ordinary high water and the line of ordinary low water and on river islands on the Sandy River from River Mile 0.0 to 37.5 is closed to:

- (1) All uses between 10 p.m. and 5 a.m. throughout the year, and
- (2) Open fires at any time beginning May 1 and ending November 1 of every year.

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 2-2004, f. & cert. ef. 6-11-04

[141-088-0040](#)**Restrictions for the State-Owned Banks of the Columbia River in the Vicinity of Dodson and Warrendale**

All state-owned land that is under the jurisdiction of the Department in the vicinity of Dodson to Warrendale that is between the line of ordinary high water and the line of ordinary low water on the Columbia River from River Mile 139.5 to 142.5 is closed to:

- (1) All uses between 10 p.m. and 5 a.m. throughout the year, and
- (2) Open fires at any time beginning May 1 and ending November 1 of every year.

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 2-2004, f. & cert. ef. 6-11-04

[141-088-0050](#)**Restrictions for the State-Owned Banks of the Chetco River**

All state-owned land that is under the jurisdiction of the Department that is between the line of ordinary high water and the line of ordinary low water on the Chetco River from the Highway 101 Bridge to River Mile 11 (about one mile upstream from the mouth of Elk Creek) is closed to:

- (1) All uses between 10 p.m. and 5 a.m. throughout the year, and
- (2) Open fires at any time beginning May 1 and ending November 1 of every year, unless a longer period is ordered by the Coos Forest Protective Association.

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 2-2004, f. & cert. ef. 6-11-04

[141-088-0055](#)**Restrictions on Use of Motorized Vehicles in the State-Owned Bed and Banks of the Chetco River**

(1) All state-owned land that is under the jurisdiction of the Department that is below the line of ordinary high water on the Chetco River from the Highway 101 Bridge to River Mile 11 (about one mile upstream from the mouth of Elk Creek) is closed to any and all use by motor vehicles within the wetted channel of the main stem of the river. Excepted from the closure are Government-owned vehicles on

official business, motor or non-motorized boats, vehicles used in the launching or the retrieving of boats, vehicles operating under an authorization issued by the Department, public and private utility vehicles performing company business, vehicles involved in rescue or emergency activities, and vehicles engaged in repair of fences and placement of bank protection material.

(2) For the purposes of this rule, “wetted channel of the main stem” means state-owned submerged and/or submersible land of the primary segment of the river that is inundated by the waterway at the time of use.

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 2-2013, f. 8-12-13, cert. ef. 9-1-13

#### [141-088-0060](#)

##### **Restrictions for the State-Owned Banks of the Willamette River in the Vicinity of Wheatland Bar Island and Willamette Mission State Park and Adjacent Upland**

All state-owned land that is under the jurisdiction of the Department that is between the line of ordinary high water and the line of ordinary low water on the Willamette River, and all state-owned upland that is managed by the Department that is also in the vicinity of, or that comprises Wheatland Island or Willamette Mission State Park is closed to:

- (1) All uses between 10 PM and 5 AM throughout the year,
- (2) Open fires at any time beginning May 1 and ending November 1 of every year, and
- (3) All-terrain vehicles or other motorized vehicle uses except for those involved in the loading or unloading of recreational watercraft and parking during allowable use periods (i.e, 5 A.M to 10 P.M.).

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 2-2004, f. & cert. ef. 6-11-04

#### [141-088-0070](#)

##### **Restrictions for the State-Owned Bed and Banks of the Willamette River in the Vicinity of the Former McCormick-Baxter Plant**

All state-owned land that is under the jurisdiction of the Department that is on the north side of the Willamette River at about River Mile 7 and fronting and abutting the site of the former McCormick-Baxter Plant, the Burlington Northern Bridge, and Willamette Cove as described in easement EA-31530 is temporarily closed to all public uses during the construction period while a sand cap is being placed over contaminated sediments.

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 2-2004, f. & cert. ef. 6-11-04

#### [141-088-0080](#)

##### **Restrictions for the State-Owned Banks of the Columbia River in the Vicinity of the Gary Island**

All state-owned land that is under the jurisdiction of the Department that is between the line of ordinary high water and the line of ordinary low water on the south bank of the Columbia River in the vicinity of Gary Island between River Mile 123.5 and 124.5 is closed to any use without prior written authorization from the Department.

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 2-2004, f. & cert. ef. 6-11-04

#### [141-088-0090](#)

##### **Closure of Sand Lake Estuary**

(1) All submerged and submersible land under the jurisdiction of the Department below Head of Tide within the Sand Lake estuary is closed to any and all use by motor vehicles. Excepted from the estuary closure are Government-owned vehicles on official business, motor or non-motorized boats, vehicles used in the launching of boats at designated launching sites, public and private utility vehicles performing company business, vehicles involved in rescue or emergency activities, and vehicles engaged in repair of fences and placement of bank protection material.

(2) Head of Tide means the inland-most extent of tidal influence as measured by an increase in water surface level at Mean High Tide (Mean Lower Low Water Datum).

(3) The elevation of Mean High Tide corresponds to a tide stage of 7.5 feet (Mean Lower Low Water Datum). The Head of Tide in the Sand Lake estuary extends to the upper limit of the lake. (Sections 19, 20, 29, 30, 31 and 32 of Township 3 South, Range 10 West, Willamette Meridian.)

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 2-2004, f. & cert. ef. 6-11-04

#### [141-088-0100](#)

##### **Closure of Siltcoos River Estuary**

(1) All submerged and submersible land under the jurisdiction of the Department below Head of Tide within the Siltcoos River estuary is closed to any and all use by motor vehicles. Excepted from the estuary closure are Government-owned vehicles on official business, motor or non-motorized boats, vehicles used in the launching of boats at designated launching sites, public and private utility vehicles performing company business, vehicles involved in rescue or emergency activities, and vehicles engaged in repair of fences and placement of bank protection material.

(2) Head of Tide means the inland-most extent of tidal influence as measured by an increase in water surface level at Mean High Tide (Mean Lower Low Water Datum).

(3) The elevation of Mean High Tide corresponds to a tide state of about 6.5 feet (Mean Lower Low Water Datum). The location of Head of Tide in the Siltcoos River estuary is approximately River Mile 3, at the Siltcoos Lake Outlet (Sections 32, 33, and 34 of Township 19 South, Range 12 West, Willamette Meridian).

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 2-2004, f. & cert. ef. 6-11-04

**141-088-0110****Closure of Tenmile Creek Estuary**

(1) All submerged and submersible land under the jurisdiction of the Department below Head of Tide within the Tenmile Creek estuary is closed to any and all use by motor vehicles. Excepted from the estuary closure are Government-owned vehicles on official business, motor or non-motorized boats, vehicles used in the launching of boats at designated launching sites, public and private utility vehicles performing company business, vehicles involved in rescue or emergency activities, and vehicles engaged in repair of fences and placement of bank protection material.

(2) Head of Tide means the inland-most extent of tidal influence as measured by an increase in water surface level at Mean High Tide (Mean Lower Low Water Datum).

(3) The elevation of Mean High Tide corresponds to a tide stage of about 6.5 feet (Mean Lower Low Water Datum). The location of Head of Tide in the Tenmile Creek estuary is approximately River mile 1.1, at the Tenmile Lake Outlet (Sections 22, 23, and 14 of Township 23 South, Range 13 West, Willamette Meridian).

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 2-2004, f. & cert. ef. 6-11-04

**141-088-0120****Closure of Tahkenitch Creek Estuary**

(1) All submerged and submersible land under the jurisdiction of the Department below Head of Tide within the Tahkenitch Creek estuary is closed to any and all use by motor vehicles. Excepted from the estuary closure are Government-owned vehicles on official business, motor or non-motorized boats, vehicles used in the launching of boats at designated launching sites, public and private utility vehicles performing company business, vehicles involved in rescue or emergency activities and vehicles engaged in repair of fences and placement of bank protection material.

(2) Head of Tide means the inland-most extent of tidal influence as measured by an increase in water surface level at Mean High Tide (Mean Lower Low Water Datum).

(3) The elevation of Mean High Tide corresponds to a tide stage of about 6.5 feet (Mean Lower Low Water Datum). The location of Head of Tide in the Tahkenitch Creek estuary is approximately River Mile 1.2 at the Tahkenitch Creek Outlet (Sections 19 and 20, Township 20 South, Range 12 West, Willamette Meridian).

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 2-2004, f. & cert. ef. 6-11-04

**141-088-0130****Closure of Berry Creek Estuary**

(1) All submerged and submersible land under the jurisdiction of the Department below Head of Tide within the Berry Creek estuary is closed to any and all use by motor vehicles. Excepted from the estuary closure are government-owned vehicles on official business, motor or non-motorized boats, vehicles used in the launching of boats at designated launching sites, public and private utility vehicles performing company business, vehicles involved in rescue or emergency activities, and vehicles engaged in repair of fences and placement of bank protection material.

(2) Head of Tide means the inland-most extent of tidal influence as measured by an increase in water surface level at Mean High Tide (Mean Lower Low Water Datum).

(3) The elevation of the Mean High Tide corresponds to a tide stage of about 6.3 feet (Mean Lower Low Water Datum). The location of Head of Tide on Berry Creek is approximately the same as the line of Mean High Tide on the beach.

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 2-2004, f. & cert. ef. 6-11-04

#### [141-088-0140](#)

##### **Closure of Sutton Creek Estuary**

(1) All submerged and submersible land under the jurisdiction of the Department below Head of Tide within the Sutton Creek estuary is closed to any and all use by motor vehicles. Excepted from the estuary closure are government-owned vehicles on official business, motor or non-motorized boats, vehicles used in the launching of boats at designated launching sites, public and private utility vehicles performing company business, vehicles involved in rescue or emergency activities, and vehicles engaged in repair of fences and placement of bank protection material.

(2) Head of Tide means the inland-most extent of tidal influence as measured by an increase in water surface level at Mean High Tide (Mean Lower Low Water Datum).

(3) The elevation of Mean High Tide corresponds to a tide stage of about 6.5 feet, (Mean Lower Low Water Datum). The location of Head of Tide on Sutton Creek is approximately River mile 0.4 (Section 28, Township 17 South, Range 12 West, Willamette Meridian).

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 2-2004, f. & cert. ef. 6-11-04

#### [141-088-0150](#)

##### **Closure of Twomile Creek Estuary**

(1) All submerged and submersible land under the jurisdiction of the Department below Head of Tide within the Twomile Creek estuary is closed to any and all use by motor vehicles. Excepted from the estuary closure are government-owned vehicles on official business, motor or non-motorized boats, vehicles used in the launching of boats at designated launching sites, public and private utility vehicles performing company business, vehicles involved in rescue or emergency activities, and vehicles engaged in repair of fences and placement of bank protection material.

(2) Head of Tide means the inland-most extent of tidal influence as measured by an increase in water surface level at Mean High Tide (Mean Lower Low Water Datum).

(3) The elevation of Mean High Tide corresponds to a tide stage of about 6.3 feet, (Mean Lower Low Water Datum). The location of Head of Tide on Twomile Creek is approximately River Mile 0.6 (Section 13, Township 29 South, Range 14 West, Willamette Meridian).

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 2-2004, f. & cert. ef. 6-11-04

#### [141-088-0160](#)

##### **Closure of New River, Floras Creek and Fourmile Creek**

(1) All submerged and submersible land under the jurisdiction of the Department below Head of Tide within New River and its tributaries, Fourmile Creek and Floras Creek, is closed to any and all use by motor vehicles. Excepted from the closure are government-owned vehicles on official business, motor or non-motorized boats, vehicles used in the launching of boats at designated launching sites, public and private utility vehicles performing company business, vehicles involved in rescue or emergency activities, and vehicles engaged in repair of fences and placement of bank protection material.

(2) Head of Tide means the inland-most extent of tidal influence as measured by an increase in water surface level at Mean High Tide (Mean Lower Low Water Datum).

(a) The elevation of Mean High Tide corresponds to a tide stage of about 6.3 feet (Mean Lower Low Water Datum).

(b) The Head of Tide in New River is approximately River Mile 3.1 (Section 15, Township 30 South, Range 15 West, Willamette Meridian).

(c) The location of Head of Tide in Fourmile Creek is approximately River Mile 0.7 (Section 2, Township 30 South, Range 15 West, Willamette Meridian).

(d) The location of Head of Tide in Floras Creek is approximately River Mile 0.2 (Section 5, Township 31 South, Range 15 West, Willamette Meridian).

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 2-2004, f. & cert. ef. 6-11-04

#### [141-088-0170](#)

##### **Closure of Euchre Creek Estuary**

(1) All submerged and submersible land under the jurisdiction of the Department below Head of Tide within the Euchre Creek estuary is closed to any and all use by motor vehicles. Excepted from the closure are government-owned vehicles on official business, motor or non-motorized boats, vehicles used in the launching of boats at designated launching sites, public and private utility vehicles performing company business, vehicles involved in rescue or emergency activities, and vehicles engaged in repair of fences and placement of bank protection material.

(2) Head of Tide means the inland-most extent of tidal influence as measured by an increase in water surface level at Mean High Tide (Mean Lower Low Water Datum).

(3) The elevation of the Mean High Tide corresponds to a tide state of about 6.6 feet, (Mean Lower Low Water Datum). The location of Head of Tide of Euchre Creek is approximately the same as the line of Mean High Tide on the beach.

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 2-2004, f. & cert. ef. 6-11-04

**141-088-0180**

**Closure of Pistol River Estuary**

(1) All submerged and submersible land under the jurisdiction of the Department below Head of Tide within the Pistol River estuary is closed to any and all use by motor vehicles. Excepted from the closure are government-owned vehicles on official business, motor or non-motorized boats, vehicles used in the launching of boats at designated launching sites, public and private utility vehicles performing company business, vehicles involved in rescue or emergency activities, and vehicles engaged in repair of fences and placement of bank protection material.

(2) Head of Tide means the inland-most extent of tidal influence as measured by an increase in water surface level at Mean High Tide (Mean Lower Low Water Datum).

(3) The elevation of Mean High Tide corresponds to a tide stage of about 6.3 feet, (Mean Lower Low Water Datum). The location of Head of Tide on Pistol River is approximately River Mile 1.4 (Section 20, Township 38 South, Range 14 West, Willamette Meridian).

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 2-2004, f. & cert. ef. 6-11-04

**141-088-0190**

**Restrictions for the State-Owned Property at Jones Beach (Columbia River)**

All state-owned land that is under the jurisdiction of the Department in the area known as Jones Beach, between Columbia River Mile 46.0 and Columbia River Mile 48.0, lying north of River Front Road, in Sections 33 and 34, Township 8 North, Range 5 West, in Columbia County, Oregon, is closed to:

(1) All uses between 10 p.m. and 5 a.m. throughout the year, and

(2) All-terrain vehicles as defined in ORS 801.190-.194 throughout the year. Excepted from these restrictions are Government-owned vehicles on official business, street legal class II all-terrain vehicles during open use hours, public and private vehicles performing company business, vehicles involved in rescue or emergency activities, district authorized persons and landowners inspecting or maintaining levees and fences.

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 3-2013, f. 11-12-13 cert. ef. 12-1-13

**141-088-0195**

**Restrictions for the State-Owned Property at Stevens Road**

All state-owned land that is under the jurisdiction of the Department in the area known as the Stevens Road Tract, in Section 11, Township 18 South, Range 12 East, in Deschutes County, Oregon, is closed to:

(1) All uses between 10 p.m. and 5 a.m. throughout the year, and

- (2) Any and all use by motor vehicles, and
- (3) Open fires throughout the year, and
- (4) Any and all discharge of firearms.

Excepted from this restriction are government personnel on official business, public and private employees performing company business, vehicles and persons involved in rescue or emergency activities, Department authorized persons and adjacent landowners inspecting or maintaining fences.

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 2-2015, f. 5-6-15, cert. ef. 6-1-15

**141-088-0200**

**Restrictions for the State-Owned Property on the West Half of Juniper Canyon Parcel**

All land west of Juniper Canyon Road that is under the jurisdiction of the Department in the area known as the West Half of Juniper Canyon Parcel, in Section 34, Township 15 South, Range 16 East, in Crook County, Oregon, is closed to:

- (1) All uses between 10 p.m. and 5 a.m. throughout the year, and
- (2) Any and all use by motor vehicles, and
- (3) Open fires throughout the year, and
- (4) Any and all discharge of firearms.

Excepted from this restriction are government personnel on official business, public and private employees performing company business, vehicles and persons involved in rescue or emergency activities, Department authorized persons and adjacent landowners inspecting or maintaining fences.

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 2-2015, f. 5-6-15, cert. ef. 6-1-15

**141-088-0205**

**Restrictions for the State-Owned Property on the South Redmond Parcel**

All state-owned land that is under the jurisdiction of the Department in the area known as the South Redmond Tract, in Sections 32 and 33, Township 15 South, Range 13 East, in Deschutes County, Oregon, is closed to:

- (1) All uses between 10 p.m. and 5 a.m. throughout the year, and
- (2) Open fires throughout the year.

Excepted from this restriction are government personnel on official business, public and private employees performing company business, vehicles and persons involved in rescue or emergency activities, Department authorized persons and adjacent landowners inspecting or maintaining fences.

**Statutory/Other Authority:** ORS 183, 273 & 274

**Statutes/Other Implemented:** ORS 273 & 274

**History:**

DSL 2-2015, f. 5-6-15, cert. ef. 6-1-15

**141-088-0210****Restrictions for the State-Owned Banks and Islands of the Willamette River within the city of Eugene**

All state-owned land that is under the jurisdiction of the Department between the line of ordinary high water and the line of ordinary low water along the Willamette River, including all islands between these areas, between River Mile 178 and River Mile 184, between the Randy Pape Beltline Road Bridge and the Interstate 5 Bridge, located in Sections 18, 29, 30, 32 and 33, Township 17 South, Range 3 West, and Sections 13, 24 and 25, Township 17 South, Range 4 West, Willamette Meridian, in Lane County, Oregon, is closed to:

- (1) All uses between 10 p.m. and 5 a.m.
- (2) The establishment of a campsite at any time. For purposes of this section, “campsite” means any place where any bedding, sleeping bag or other material used for bedding purposes, or any stove is placed, established or maintained for the purpose of maintaining a temporary place to live, whether such a place incorporates the use of any tent, lean-to, shack or any other structure.
- (3) Fires at any time.

Excepted from this restriction are Government personnel on official business, public and private employees performing company business, vehicles and persons involved in rescue or emergency activities, and Department authorized persons and adjacent landowners inspecting or maintaining property.

**Statutory/Other Authority:** ORS 183, ORS 273 & ORS 274

**Statutes/Other Implemented:** ORS 273 & ORS 274

**History:**

[DSL 14-2019, adopt filed 12/13/2019, effective 01/01/2020](#)

**141-088-0220****Restrictions for the State-Owned Banks and Islands of the Willamette River within the boundaries of Swan Island inside the city limits of Portland**

Restrictions for the State-Owned Banks and Islands of the Willamette River within the boundaries of Swan Island inside the city limits of Portland.

All state-owned land that is under the jurisdiction of the Department between the line of ordinary high water and the line of ordinary low water along the Willamette River between River Mile 01 and River Mile 11 , including the Swan Island Lagoon, located in Multnomah County, Oregon, is closed to:

- (1) All uses between 10 p.m. and 5 a.m.
- (2) The establishment of a campsite at any time. For purposes of this section, “campsite” means any place where any bedding, sleeping bag or other material used for bedding purposes, or any stove is placed, established or maintained for the purpose of maintaining a temporary place to live, whether such a place incorporates the use of any tent, lean-to, shack, vessel or any other structure.
- (3) Fires at any time.

Excepted from this restriction are Government personnel on official business, public and private employees performing company business, vehicles and persons involved in rescue or emergency activities, and Department authorized persons and adjacent landowners inspecting or maintaining property.

**Statutory/Other Authority:** ORS 183, ORS 273 & ORS 274

**Statutes/Other Implemented:** ORS 273 & ORS 274

**History:**

[DSL 14-2019, adopt filed 12/13/2019, effective 01/01/2020](#)

[141-088-0230](#)

**Restrictions for the State-Owned Property of the Columbia River and Oregon Slough**

All state-owned land that is under the jurisdiction of the Department between the line of ordinary high water and the line of ordinary low water along the Columbia River between river mile 102 to 106 (Hayden Island to the north side and Marine Drive to the south side), and river mile 120 to 121 (Sandy River Delta), and along the Oregon Slough (North Portland Harbor Channel) between river mile 0 to 2.5, in Multnomah County, Oregon, is closed to:

- (1) All uses between 10 p.m. and 5 a.m.
- (2) The establishment of a campsite at any time. For the purposes of this section, “campsite” means any place where bedding, sleeping bag or other material used for bedding purposes, or any stove is placed, established or maintained for the purpose of maintaining a temporary place to live, whether such a place incorporates the use of any tent, lean-to, shack, vessel or any other structure.
- (3) Fires at any time.

Excepted from this restriction are Government personnel on official business, public and private employees performing company business, vehicles and persons involved in rescue or emergency activities, Department authorized persons, and adjacent landowners inspecting or maintaining property.

**Statutory/Other Authority:** ORS 183, ORS 273 & ORS 274

**Statutes/Other Implemented:** ORS 273 & ORS 274

OFFICE OF THE SECRETARY OF STATE  
 BEV CLARNO  
 SECRETARY OF STATE  
 JEFF MORGAN  
 INTERIM DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION  
 STEPHANIE CLARK  
 DIRECTOR  
 800 SUMMER STREET NE  
 SALEM, OR 97310  
 503-373-0701

**NOTICE OF PROPOSED RULEMAKING**  
 INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 141  
 DEPARTMENT OF STATE LANDS

**FILED**

05/29/2020 8:41 AM  
 ARCHIVES DIVISION  
 SECRETARY OF STATE

FILING CAPTION: Restrictions for the State-Owned Property of the Columbia River and Oregon Slough

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 07/01/2020 4:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

CONTACT: Kaitlyn Wiggins  
 503-986-5279  
 kaitlyn.r.wiggins@state.or.us

775 Summer St NE  
 #100  
 Salem, OR 97301

Filed By:  
 Kaitlyn Wiggins  
 Rules Coordinator

HEARING(S)

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 06/17/2020

TIME: 4:30 PM - 5:30 PM

OFFICER: Kaitlyn Wiggins

ADDRESS: Remote Hearing - Zoom

Request Zoom link by email or online.

Salem, OR 97301

SPECIAL INSTRUCTIONS:

DSL is holding a remote hearing via Zoom to keep Oregonians safe and healthy during COVID-19. To request the meeting link, go to DSL's website under Laws & Rules, or email kaitlyn.r.wiggins@state.or.us.

NEED FOR THE RULE(S):

Revisions to the rules governing the establishment of restrictions on the public recreational use of state-owned land (OAR 141-088) are needed to address illegal and nuisance activity on state-owned land. These activities include but are not limited to offensive littering and dumping, reckless burning and open fires, damage to riparian vegetation and wildlife habitat, interference with property, and damage to property. To meet these needs, DSL is adopting restrictions for state-owned property of the Columbia River and the Oregon Slough (also known as the North Portland Harbor Channel) in the Portland-area.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

ORS 273 & 274, Oregon Legislature  
 OAR 141-088, Secretary of State

## FISCAL AND ECONOMIC IMPACT:

DSL does not anticipate significant fiscal or economic impact on surrounding businesses. The proposed rule seeks to address illegal and nuisance activities on state-owned land. There are no developed or authorized uses at these locations. The proposed rule language takes into consideration and makes exceptions for "government personnel on official business, public and private employees performing company business, vehicles and persons involved in rescue or emergency activities, Department authorized persons, and adjacent landowners inspecting or maintaining property."

## COST OF COMPLIANCE:

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

(1) DSL does not believe the proposed rule will have a significant economic impact on the public, local government, or state agencies. Potential economic impacts include, but are not limited to: increased transportation costs to the public resulting from the need to travel to other public land if this restriction is imposed; increased costs to DSL for the manufacture and placement of signs, and the publication of public notices describing the restrictions on or closure to public recreational use; or increased costs to state and local law enforcement, as any restriction or closure is another activity that state and local law enforcement must monitor. However, these costs may be offset by the otherwise incurred costs of monitoring overnight camping. State and local law enforcement were informed of the restrictions and are in support of the proposed rule.

(2)(a) Only small businesses that use state-owned land for recreational purposes would be impacted by any restrictions or closures imposed on recreational use by the Director or the State Land Board - and only if such restrictions or a closure were imposed on a site, parcel, or area of state-owned land which a small business has, or would like to use. It is not feasible to estimate the number of such small businesses. However, it is unlikely that there would be any significant cost on small businesses in order to comply with the proposed rule.

(b) DSL does not believe the proposed changes will result in increased costs for reporting, record-keeping, or other administrative activities by small businesses.

(c) DSL does not believe the proposed changes will result in increased costs for professional services, equipment, supplies, labor, or administration.

## DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small business interests were represented on the Rule Advisory Committee (RAC). Two small business owners were committed to participating on the RAC, though one member was unable to attend for medical reasons. The small business owner who was present owns a small marina and boatyard, and is a member of the Waterfront Organizations of Oregon.

## WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

ADOPT: 141-088-0230

RULE SUMMARY: Closure of banks of the Columbia River between mile markers 102 to 106 and 120 to 121, and the

Oregon Slough between mile markers 0 to 2.5.

CHANGES TO RULE:

141-088-0230

Restrictions for the State-Owned Property of the Columbia River and Oregon Slough

(1) All state-owned land that is under the jurisdiction of the Department between the line of ordinary high water and the line of ordinary low water along the Columbia River between river mile 102 to 106 (Hayden Island to the north side and Marine Drive to the south side), and river mile 120 to 121 (Sandy River Delta), and along the Oregon Slough (North Portland Harbor Channel) between river mile 0 to 2.5, in Multnomah County, Oregon, is closed to:

(a) All uses between 10 p.m. and 5 a.m.

(b) The establishment of a campsite at any time. For the purposes of this section, "campsite" means any place where bedding, sleeping bag or other material used for bedding purposes, or any stove is placed, established or maintained for the purpose of maintaining a temporary place to live, whether such a place incorporates the use of any tent, lean-to, shack, vessel or any other structure.

(c) Fires at any time.

(2) Excepted from this restriction are Government personnel on official business, public and private employees performing company business, vehicles and persons involved in rescue or emergency activities, Department authorized persons, and adjacent landowners inspecting or maintaining property.

Statutory/Other Authority: ORS 183, 273 & 274

Statutes/Other Implemented: ORS 273 & 274



## OAR 141-088 Rulemaking Public Comments and Agency Response

### 1) Peter Carew

**Comment:** "I am concerned about the loss of camping with respect to the Columbia River Watertrail. The watertrail is a great way for Oregonians to recreate - particularly with paddlecraft such as kayaks - on sections of the river or all the way from below Bonneville Dam to Astoria. For longer stretches of that trail to be practical for kayak camping - without intermediate car shuttles - there need to be sufficient overnight campsites. I am not as concerned with the Sandy River Delta as Government Island nearby allows camping. However, the north end of Hayden Island is valuable as a camping location without any other camping spots nearby. I have used this spot for kayak camping and was very glad it was available. In general, my experience with kayak campers is they are respectful of the environment and utilize leave-no-trace methods. I urge you to leave this spot available for camping by human powered paddlecraft. Thank you for your consideration."

**Agency Response:** The agency supports recreational use of the watertrail between the hours of 5 A.M. and 10 P.M. However, this rule change is designed to mitigate the continued damage to property, the environment, and public recreation areas that is a direct result from overnight camping along these particular riverbanks. Allowing camping by human powered paddlecraft is unlikely to address these issues, as many of the unauthorized camps on Hayden Island are accessed by individuals using paddlecraft. Exempting camps established by paddle craft would also complicate enforcement of these rules by law enforcement agencies.

### 2) Adrienne Peterson, Grant Banks YC and Portland YC

**Comment:** "We have travelled this area in our boat, and have seen open fires on the shore. In the section under Description: we feel that 'any stove or open fires of any kind' should be included, not just 'any stove'."

**Agency Response:** Although fires are not included in the formal definition of "campsite," they are addressed in the next section of the rule draft (2), which prohibits fires at any time.

### 3) DSL received 3 comments asking for the Zoom link, as the agency was holding public hearings remotely due to COVID-19. The comments were from Kevin Cornelius, Andy Meyer of the Columbia River Yachting Association, and Brett Echols of NOTS Boating Club and TYEE Yacht Club.

**Comment:** "I would like to join the Zoom video meeting for DIV 88 on June 17<sup>th</sup>..."

**Comment:** “I would like to attend the June 17<sup>th</sup> Zoom meeting, please forward the link. Regard, Brent.”

**Comment:** “Please put me on the list to listen to the zoom meeting at 4:30 on the 17th. As Executive Vice President of Columbia River Yachting Assoc. I am interested in finding out how this will impact boaters who want to anchor out along the shore for the weekend below the RR bridge on the Oregon Slough. Many boaters then go to shore and walk along the beach.”

**Agency Response:** The rules coordinator replied with the Zoom link, and thanked the commenters for their interest in the Division 88 rule change.

**4) DSL received 4 comments in support of the rule change, from Jean Quinsey; Jane Heisler; Kenneth Stephens, Rose City Yacht Club; and Stephen Schneider**

**Comment:** “Hello, I am in support of the rulemaking to restrict the public recreational use of state-owned land on the banks of the Columbia River between river mile 102 to 106 (Hayden Island to the north side and Marine Drive to the south side) and river mile 120 to 121 (Sandy River Delta), and along the Oregon Slough (also known as the North Portland Harbor Channel) between river mile 0 to 2.5, in Multnomah County. Our natural resources should and need to be protected. Camping in these areas deteriorates them. Thank you.”

**Comment:** “I completely support efforts to close these areas at night. Property damage due to waste, fire and other human caused factors is a real problem. Thank you.”

**Comment:** “I, as an individual, approve of the restricting camping in the areas described.”

**Comment:** “It’s about time to start this sort of clean up. Maybe work on the campers along the Willamette next. When I was driving from Spokane to Idaho there was a sign that said, “Overnight camping in designated areas only.” This camping virus is getting way out of hand. Other countries have refugee camps providing potable water, showers and restrooms for the misplaced. These folks are obviously refugees of some sort, whether it be by drug, alcohol, mental issues, or just bad luck. They need a humane place to stay. Affordable housing is an answer for a small percentage of the homeless people whose situation was caused by “bad luck” for whatever reason. Thanks.”

**Agency Response:** The agency appreciates positive feedback from the public in support of the Division 88 rule change.

# Columbia River and Hayden Island

Proposed Closure Area      River Miles



### Columbia River at Sandy River Delta

 Proposed Closure Area      River Miles





# Oregon

Kate Brown, Governor

## Department of State Lands

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[www.oregon.gov/dsl](http://www.oregon.gov/dsl)

## M E M O R A N D U M

### State Land Board

Date: August 11, 2020

Kate Brown  
Governor

To: Governor Kate Brown  
Secretary of State Bev Clarno  
State Treasurer Tobias Read

Bev Clarno  
Secretary of State

Tobias Read  
State Treasurer

From: Vicki L. Walker  
Director

Subject: DAS Hillcrest Mineral Release in Marion County  
LAS File #62747

The Department of Administrative Services owns 44.6 acres of subsurface mineral and geothermal rights in Marion County; Township 8 South, Range 3 West, Section 12B, Tax Lot 1499, at the former Hillcrest Youth Authority facility.

The Oregon Department of Administrative Services has been diligently marketing the property for several months and is close to reaching an agreement with a purchaser who is also interested in purchasing the mineral estate.

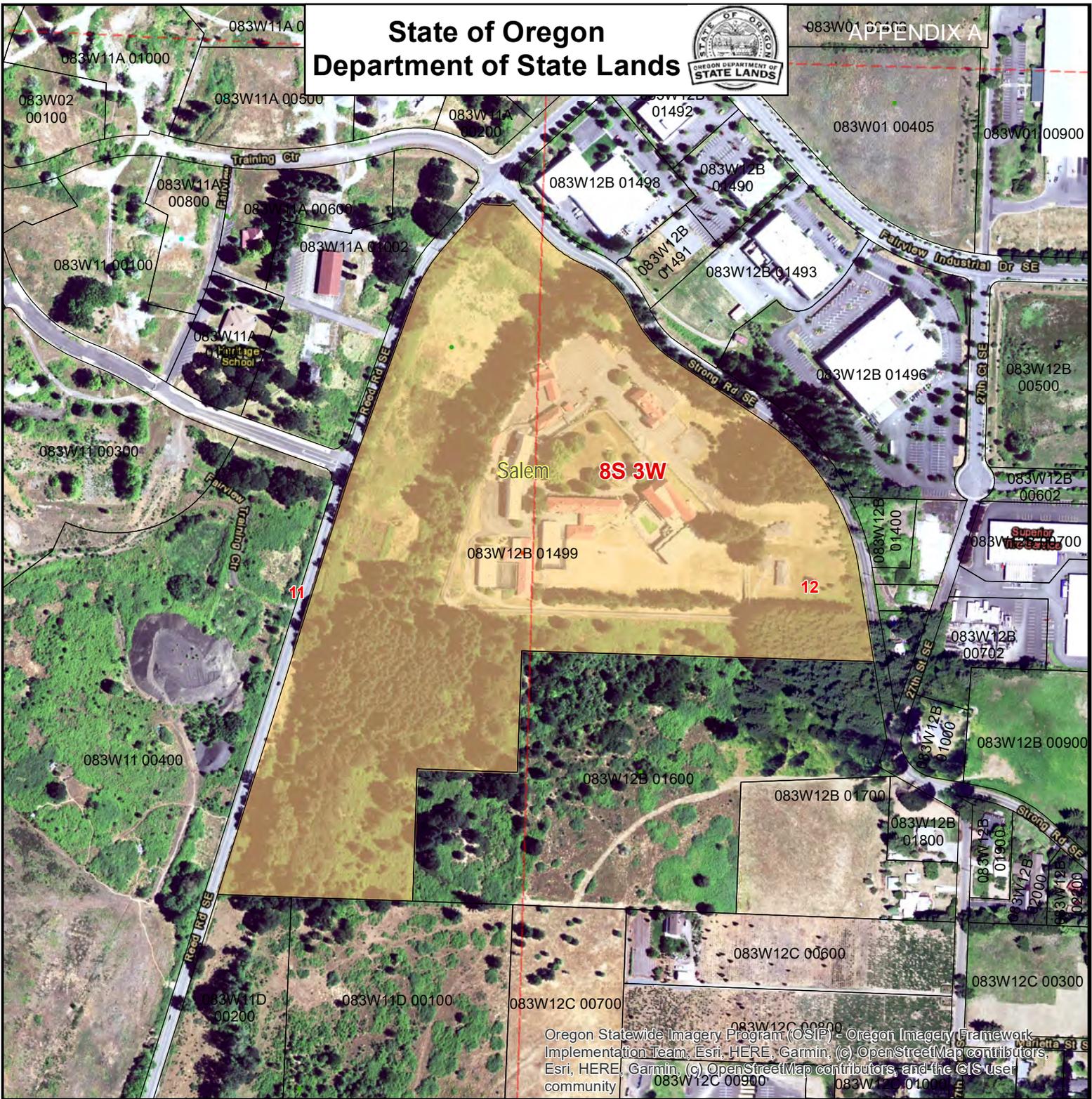
ORS 273.780 (3) states, "...the mineral and geothermal resource rights shall be retained by the state in the absence of a finding by the State Land Board upon adequate facts presented to it that their sale or exchange is for the purpose of obtaining the greatest benefit for the people of this state, consistent with the conservation of lands under its jurisdiction under sound techniques of land management."

This item has been brought to the Board as an informational item. A DOGAMI mineral potential report has been ordered as required by OAR 141-073-0118. Upon completion of the DOGAMI report, the Department will review it and submit a recommendation to the Land Board on whether or not to release the minerals.

# State of Oregon Department of State Lands



APPENDIX A



Oregon Statewide Imagery Program (OSIP) - Oregon Imagery Framework Implementation Team, Esri, HERE, Garmin, (c) OpenStreetMap contributors, Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS User community

## APPENDIX A

## 2018 Aerial Photo

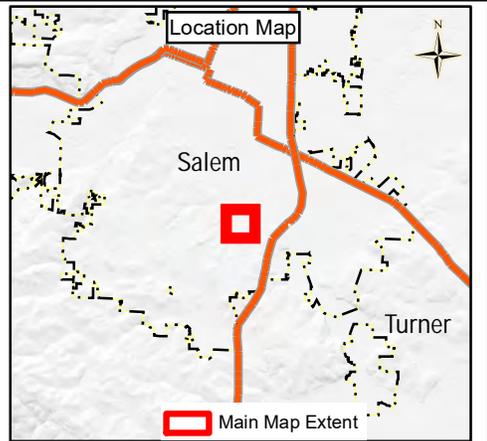
**62747-LS**  
**T08S, R03W Section 12B**  
**Tax Lot #1499**  
**44.6 Acres**  
**Marion County**

Dept. of Admin Services

This map depicts the approximate location and extent of a Department of State Lands Proprietary authorization for use. This product is for informational purposes only and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.



Map Projection:  
 Oregon Statewide Lambert  
 Datum NAD83  
 International Feet  
 State of Oregon  
 Department of State Lands  
 775 Summer St NE, Suite 100  
 Salem, OR 97301  
 503-986-5200  
 www.oregon.gov/DSL  
 Date: 6/23/2020



Main Map Extent