



**Department of State Lands  
Rulemaking Advisory Committee  
Division 88 Public Use on State Owned Lands in Eugene  
WEDNESDAY, JULY 17, 2019  
10:00 am – 12:00 pm  
City of Eugene Parks and Open Spaces  
1820 Roosevelt Blvd, Eugene, Oregon**

**To Call-In: 1.888.278.0296, participant # 581433**

<b>Schedule</b>	<b>Topic</b>	<b>Presenter</b>
10:00 am	Introductions	Jim Owens, Facilitator
10:15	Agenda Review	Jim Owens
10:20	Approval of June 18 Meeting Summary	RAC Members
10:35	Discussion/Approval of RAC Statement	RAC Members
11:00	Fiscal Impact Statement	Blake Helm, DSL
	Presentation of Proposed Statement	
	Approval of Statement	
11:30	Next Steps in Rulemaking Process	Anne Friend
11:40	Summary & Next Steps	Jim Owens
12:00 pm	Adjourn	

**Notes**

- RAC Statement: Included in the Summary of the RAC's June 18 meeting is a draft RAC statement of support for the proposed rule.
- Public Record: Meetings will be audio recorded, and a summary distributed to RAC members. These will represent the official public record of the RAC deliberations. Other public comments received at the RAC meetings will be included in the meeting record but not considered formal public comment. Formal public comment will be accepted during the public comment period in the Fall 2019.
- For additional information, contact:

Jim Owens, Jim Owens Consulting Company  
503-201-4205  
jim@jgowens.com



**PUBLIC RECREATIONAL USE OF STATE-OWNED LAND RULEMAKING  
WILLAMETTE RIVER ISLANDS WITHIN THE EUGENE CITY LIMITS  
JUNE 18, 2019,  
RULEMAKING ADVISORY COMMITTEE (RAC) SUMMARY**

**Overview**

The OAR 141-088 Rulemaking Advisory Committee was convened by the Oregon Department of State Lands (DSL or Department) on June 18, 2019, at City of Eugene Parks and Open Space offices. The RAC was convened to provide input on proposed rules to restrict the public recreational use of state-owned banks and islands on the Willamette River within the Eugene city limits.

**Action Items**

There was consensus with the Facilitator circulating the following statement to RAC members for review and potential approval at the group's July 17 meeting:

1. The proposed rules meet their stated purpose to protect against: (1) the loss of, or damage to property; (2) the loss of, or damage to natural resources and the environment; (3) degradation of water quality; and (4) loss of, or damage to riparian vegetation and wildlife habitat.
2. Implementation of these rules needs to be accompanied by a clearly defined enforcement program and broad public education efforts.
3. While the RAC recognizes that the issue of houselessness is beyond the scope of this specific rulemaking, the RAC expresses its strong concern to state and local officials and agencies that these rules have the potential consequence of shifting the impacts of unauthorized camping to other public and private lands. The unauthorized camping issue is part of a larger issue of houselessness that state and local leaders are urged to proactively address, including through replacement areas for camping and expanded community services.

**RAC Members and Attendance**

<b>Name</b>	<b>Affiliation</b>	<b>Attendance</b>
Margaret Hoff	Director, U. of O. Outdoor Program	Y
Brenda Kosydar Norman Riddle, alternate	Case Manager, White Bird Clinic	N Y
Roxann O'Brien	Director, Lindholm Service Center, St. Vincent de Paul	Y

Name	Affiliation	Attendance
Robert Brack	Recreation Program & AIC Program Supervisor, Riverhouse Outdoor Center	N
Ryan Turner	Natural Area Operations, Parks and Open Space, City of Eugene	Y
Michelle Emmons	Restoration Manager, Willamette Riverkeepers	Y
Ryan Sparks	Operation Support Manager, OR. Parks & Rec. Dept. (OPRD)	Y
Lt. Craig Heuberger Sgt. Chris Ashenfelter, alternate	Fish & Wildlife Division, Oregon State Police (OSP)	N Y
Joy Vaughan	Land Use and Waterway Alternations Coordinator, OR. Dept. of Fish & Wildlife (ODFW)	Y (phone)
John Brown	Commissioner, Eugene Water & Electric Board (EWEB)	Y
Susan Macomson	Community Member	Y
Jim Neu	Community Member	Y
Jenny Ulum	Public Affairs Counsel, Obie Companies	Y
Michael Carrigan	Staff, Community Alliance Lane County (CALC)	Y
Arwen Maas-DeSpain Kris McAllister, alternate	Carry It Forward	N N
Blake Helm	Proprietary Coordinator, DSL	Y
Anne Friend	Rules Coordinator, DSL	Y
Jacob Taylor	Proprietary Coordinator, DSL	N
Jim Owens	Consultant/Facilitator, Jim Owens Consulting Company	Y

**Welcome/Introductions/Operating Principles**

Jim Owens, Facilitator, welcomed the group and explained the meeting logistics, including that the meeting was being recorded. He advised that the audio recording and a meeting summary will represent the official public record of the RAC deliberations. He then led the group through introductions, trivia, and a review of the day’s agenda.

John Brown advised that, while he is a member of the board, he was not representing the Eugene Water & Electric Board on the RAC.

Jim reviewed the agenda and Operating Principles. He requested that, for public record purposes, all communications be routed through him. No questions or concerns were raised.

**Project Purpose and Scope**

Blake Helm, DSL Proprietary Coordinator, provided background on DSL’s role in management of state-owned lands and how and why this rulemaking was initiated. He explained that the City of Eugene requested restrictions on unauthorized uses of the riverbanks and 11 islands within its city limits after it was discovered that these lands are state-owned rather than city

owned. In response, DSL announced a temporary closure of these lands to overnight use and camping. The State Land Board subsequently authorized the Department to initiate rulemaking.

Blake explained that the intent of the rulemaking is to restrict unauthorized uses, and specifically fires and overnight camping, in order to protect the natural environment, including water quality, riparian vegetation and wildlife habitat. He further explained that the intent is to enable continued recreational uses on these lands, not to curtail all public use. He indicated that DSL hopes that this rulemaking serves as a template for rulemaking to address unauthorized recreation uses on state-owned lands in other areas of the state.

Maps of the state-owned lands along the Willamette River in the Eugene area were displayed. John Brown circulated pictures illustrative of the trash accumulating on these lands. Several members noted that some of the trash has washed downstream during flooding, especially from unauthorized camping occurring in the Springfield area.

Ryan Sparks, Oregon Parks & Recreation Department (OPRD), indicated that OPRD has properties in/around Eugene and regulates camping on those properties. OPRD is having similar challenges on its lands, e.g. at Callas Bar upstream of Eugene. Notice of eviction is required by OPRD rules. OPRD rangers can issue citations; for remote sites, Oregon State Police (OSP) officers accompany their rangers.

The language in the proposed rule was then reviewed, with the only question being about the definition of “camping”.

### **Rulemaking Process and Schedule**

Anne Friend, DSL’s Rules Coordinator, explained the rulemaking process and schedule. She indicated that there will be public hearings this Fall, with adoption of a final rule by the State Land Board by the end of the calendar year. She also reiterated that all RAC communications become part of the public record. Discussion about the process followed.

### **Discussion on Draft Rule**

Jim asked the group to consider:

- What questions do you have about the draft rule?
- Does the draft rule meet its stated purpose?
- What issues/concerns do you feel merit discussion by the group?

Questions and discussion focused on the issues of geographic scope, sanctions and enforcement, and houselessness.

### Geographic Scope

Members questioned limiting the rule’s geographic scope to the Eugene City limits and asked about expanding the scope to include upstream areas, specifically Springfield. “Truckloads of trash are coming downstream from Springfield.” It was suggested that a more holistic, Willamette-wide rule is needed. Blake and Anne explained that State Land Board action would be required to broaden the scope, which would entail a new process and a longer timeframe.

The emergency closure of state-owned lands within Eugene expires in one year and the Department was directed to complete rulemaking before that expiration.

The environmental effects of vehicles driving into the river was raised. Sgt. Ashenfelter indicated that other administrative rules/statutes are available to address this issue.

Several RAC members noted the need to coordinate with private property owners, especially Union Pacific.

### Sanctions/Enforcement

Members voiced concerns about how the restrictions will be enforced and what sanctions will be applied. A common theme was that implementation needs to be accompanied by a clearly defined enforcement program, signage and broad public education efforts. "Without enforcement and penalties, regulations are meaningless." Without regular enforcement, several members stated that unauthorized camping on state-owned lands can be expected to increase as Eugene enacts a ban on camping in parking strips and enforces the ban it has in place on camping in City parks. Another common theme was that DSL's rules need to be consistent with those in Eugene.

Blake indicated that unauthorized uses and penalties are addressed elsewhere in Division 88 rules (141-088-0009). He advised that DSL does not have resources for enforcement and instead intends to rely upon OSP and the City of Eugene for enforcement. Ryan Turner indicated that the City is prepared to conduct cleanups and enforce DSL's administrative rules as part of its park rules. The City of Eugene and DSL will enter an IGA for enforcement and cleanup. The City of Eugene owns/manages park lands adjacent to DSL riverfront ownerships and wants to ensure that regulations are consistent.

Sgt. Chris Ashenfelter described the issues that OSP encounters and explained the limitations on his agency's enforcement capabilities. OSP doesn't typically deal with houseless on the Willamette River islands in Eugene unless the Eugene Police Department calls for assistance. OSP access to the islands is limited by lack of boats of enough size to remove individuals and possessions.

It was suggested that ORS 164.775 (Deposit of trash within 100 yards of waters or in waters) be incorporated into DSL's regulations.

The definition of camping was also discussed, with the suggestion that "camper" be defined as "person without bedding".

### Houselessness

RAC members discussed the connection between the proposed rule and unauthorized camping on the Willamette River as a growing problem in the Eugene community. There was consensus that camping needs to be regulated in order to address environmental degradation, public health and safety, and other community concerns. Downstream water quality impacts were cited as a major concern. "Riparian areas are being totally trashed." "The unhoused are monopolizing public property, creating an environment perceived by regular users as unsafe."

A major concern is that public access to public lands has become limited due to harassment, public health conditions. Without regulation and enforcement, unauthorized camping on state-owned lands is expected to increase as Eugene enacts new regulations, e.g. camping in parking strips.

At the same time, there was a strongly stated concern about simply relocating the houselessness problem to elsewhere, the need for a comprehensive versus agency-specific approach to illegal camping, and the need for some State assistance to Eugene's homelessness problem. "This is not a solution to the houselessness problem; how is this different from the status quo?" "We can't keep pushing the houseless elsewhere; we need viable solutions which are more than cleanups; we need to consider camping alternatives and alternative camping sites." "We need to think outside the box versus just passing the problem along." Other concerns included:

- Will regulations be phased in?
- Personal property: What happens to personal property that is confiscated/collected; where will it be stored? How will stolen property be dealt with?
- Will notice of eviction be provided? By who?
- What public education/signage will be provided?

The group also discussed the appropriateness of rulemaking a forum for raising concerns about houselessness. Several members felt that the goal of the rulemaking process should not be to find solutions to houselessness, but to determine what are the rules and how will they be enforced to ensure safe public access and reduce environmental degradation. Most members indicated that they recognized the limitations of this rulemaking but wanted to address the houselessness issue to the extent feasible in the process. There was strong interest in forwarding a message to state and local officials that the houselessness problems cannot keep being passed off to the next process or the next jurisdiction. While it was recognized that the community has committed significant resources, there is a hope that some assistance to Eugene's houselessness problem can be provided by the State.

## **RAC Statement**

After consulting with staff, Jim Owens suggested that a statement of support for the proposed rule could be combined with an expression of concern about the houselessness problem to state and local leaders. He proposed the following, which he indicated could be circulated for review and potential approval by RAC members at its July 17 meeting. There was consensus to proceed as proposed.

1. The proposed rules meet their stated purpose to protect against: (1) the loss of, or damage to property; (2) the loss of, or damage to natural resources and the environment; (3) degradation of water quality; and (4) loss of, or damage to riparian vegetation and wildlife habitat.
2. Implementation of these rules needs to be accompanied by a clearly defined enforcement program and broad public education efforts.
3. While the RAC recognizes that the issue of houselessness is beyond the scope of this specific rulemaking, the RAC expresses its strong concern to state and local officials

and agencies that these rules have the potential consequence of shifting the impacts of unauthorized camping to other public and private lands. The unauthorized camping issue is part of a larger issue of homelessness that state and local leaders are urged to proactively address, including through replacement areas for camping and expanded community services.

### **Meeting Summary and Next Steps**

RAC members indicated that they generally supported the position statement above, which will be distributed for further review and discussion at the RAC's July 17 meeting. Also, to be reviewed at that meeting will be a draft Fiscal Impact Statement. Members agreed that a two-hour (10:00 am – Noon) meeting should be adequate.

Jim Owens indicated that the draft position statement, along with a meeting summary, will be distributed at least one week prior to the July 17 meeting and thanked the participants for a thoughtful and respectful discussion.

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

*For internal agency use only.*

Department of State Lands

OAR 141-088

Rules Coordinator:

Blake Helm

blake.helm@dsl.state.or.us

503.986.5288

Filing Contact:

Anne Friend

775 Summer St NE, Suite 100

Salem, OR 97301

anne.m.friend@dsl.state.or.us

503.986.5245

**FILING CAPTION**

**Revisions to DIV88 Governing the Establishment of Restrictions on the Public  
Recreational use of State-Owned Land**

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Last Date and Time for Public Comment: [October 31, 2019]

TBD		Eugene	Blake Helm
Hearing Date	Time	Address	Hearings Officer
TBD		Salem	Blake Helm
Hearing Date	Time	Address	Hearings Officer
Hearing Date	Time	Address	Hearings Officer

**RULEMAKING ACTION**

*List each rule number separately (000-000-0000) below. Attach proposed, tracked changed text for each rule at the end of the filing.*

**ADOPT:**

141-088-0210

**AMEND:**

**REPEAL:**

**RULE SUMMARY:**

*Include a summary for each rule included in this filing.*

141-088-0210 (restrictions for the state-owned banks and islands of Willamette River within city limits of Eugene)

## STATEMENT OF NEED AND FISCAL IMPACT.

### Need for Rule(s):

Revisions to the rules governing the establishment of restrictions on the public recreational use of state-owned land (Oregon Administrative Rules (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, the Department of State Lands (the Department) is modifying OAR Chapter 141, Division 88 to include restrictions for state-owned banks and islands of the Willamette River within the City of Eugene.

### Fiscal and Economic Impact:

The Department does not anticipate this rulemaking to pose 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, and Department authorized persons and adjacent landowners inspecting or maintaining property."

The City of Eugene (the City) currently manages most of the riverfront properties along the Willamette River, where it flows through the City limits. Actions include patrolling areas for illicit activities (camping, dumping, trash, graffiti, etc.) and the posting of occupied encampments for removal. Camping is not permitted on City property, and when active camps are encountered on parkland, a posting is left notifying campers that the area is scheduled for cleanup. The City conducts these cleanup activities along the Willamette River in the interest of protecting riparian habitat and water quality.

The City has previously cleaned up camps and dumping on islands in the Willamette River as they had assumed it was City property and therefore their responsibility. However, these islands were formed after statehood and through accretion, making them state-owned. In a typical month, the City posts approximately 100 camps for cleanup throughout the City, approximately 1/3 of which are along the Willamette River. Between January 1, 2017 and July 18, 2018, the City Parks Division posted and cleaned up 44 camps on islands in the Willamette River.

Since July 2018, the Department has been monitoring these state-owned lands with the assistance of Eugene Parks Division staff, the Eugene Police Department and Oregon State Police.

The draft rule language is consistent with existing recreational restrictions in OAR 141-088, will protect state-owned lands from damage, and will assist the Department in the posting of occupied encampments for removal.

Statement of 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. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):*

The Department does not believe that the proposed changes to these rules, if adopted, will have a significant economic impact on the public, or state or local government agencies.

Possible economic impacts include, but are not limited to:

- (1) Increased transportation costs experienced by the public in having to travel to other public land if this restriction is imposed;
- (2) Increased costs to the Department for the manufacture and placement of signs, and the publication of public notices describing the restrictions on, or closure to public recreational use;
- (3) Increased costs to state and local law enforcement as any restriction or closure is another activity that state and local law enforcement must monitor for. State and local law enforcement were informed of the restrictions and are in support of the proposed rule.

*2. Cost of compliance effect on small business (ORS 183.336):*

*a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:*

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 want to use. It is not feasible to estimate the number of such small business. However, it is unlikely that there would be any significant cost on small businesses in order to comply with the proposed amendments to these rules.

*b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:*

The Department does not believe that the proposed changes to these rules, if adopted, will result in increased costs for reporting, recordkeeping and other administrative activities by small businesses.

*c. Equipment, supplies, labor and increased administration required for compliance:*

The Department does not believe that the proposed changes to these rules, if adopted, will result in increased costs for equipment, supplies, labor or administration.

Describe how small businesses were involved in the development of these rule(s)?

Businesses that are in the surrounding area that could be affected, were contacted. Some of those businesses were invited to sit on the rule advisory committee.

Documents Relied Upon, and where they are available:

ORS 273 and 274 are available on the Oregon Legislature's website:

[https://www.oregonlegislature.gov/bills\\_laws/Pages/ORS.aspx](https://www.oregonlegislature.gov/bills_laws/Pages/ORS.aspx).

OAR 141-088 is available on the Secretary of State's website:

<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=353>.

In addition, the rulemaking record will be available on the Department's rulemaking website:

<https://www.oregon.gov/dsl/Laws/Pages/Rulemaking.aspx>.

Was an Administrative Rule Advisory Committee consulted? Yes or No?

If not, why not?

Yes. Rule Advisory Committee meetings were held in Eugene on June 18 and July 17, 2019.