



Oregon

Tina Kotek, Governor

Department of State Lands

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State Land Board

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**Regular Meeting
February 13, 2024
Agenda Item 2**

Tina Kotek

Governor

LaVonne Griffin-Valade

Secretary of State

Tobias Read

State Treasurer

SUBJECT

Request for approval to permanently adopt OAR 141-088-0036, Restrictions for State-Owned Property at the Sandy River Delta in Multnomah County. This rule would enact public use restrictions on Oregon-owned lands, including islands, in the Sandy River Delta from the mouth of the Sandy River to the I-84 bridge crossing, including the Columbia River side channel.

ISSUE

Whether the State Land Board should approve restrictions on the use of vehicles, the discharge of firearms, and the authority to temporarily prohibit, from the Sandy River Delta, individuals who violate these restrictions or those who commit criminal acts within the Sandy River Delta.

AUTHORITY

Oregon Constitution, Article VIII, Section 5, specifies that the State Land Board is responsible for managing lands placed under their jurisdiction by law.

ORS 273.041 to 273.071; authorizing 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.

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

OAR 141-088-0000; relating to the purpose and applicability of public recreational use of state-owned property.

OAR 141-088-0004; relating to restriction of uses of state-owned lands that pose a significant risk of harm or damage to the natural resources of the land or the public.

BACKGROUND

The Department of State Lands (the Department) oversees the beds and banks of the Sandy River, as well as approximately 50 acres of natural area adjacent to the Sandy River Delta, a 1,500-acre U.S. Forest Service natural area extensively used for recreation.

For more than a decade, this area has been used for long-term camping by people experiencing unsheltered homelessness. The Department works with the U.S. Forest Service, the Multnomah County Sheriff's Office Homeless Outreach and Programs Engagement (HOPE) Team, Metro regional government, and other partners to reduce impacts of long-term camping, with an emphasis on connecting people with services and housing.

On August 1, 2023, the Department enacted [emergency restrictions](#) on the use of vehicles and firearms on Oregon-owned lands at Sandy River Delta to address the health, safety, and environmental hazards created by driving vehicles and discharging firearms in the natural area. On August 8, 2023, the State Land Board authorized the Department to initiate permanent rulemaking to restrict use of vehicles and discharge of firearms on Oregon-owned lands at the Sandy River Delta.

The purpose of the rulemaking effort was to address increased reports of vehicles being driven and parked on Oregon-owned lands, and the illegal discharge of firearms. These activities are concerning because they pose safety and health risks to people accessing and recreating in the natural area, as well as those living nearby.

PUBLIC INVOLVEMENT

The Department took into consideration public comment, input from the RAC, and input from other local and state agencies, and affected stakeholders during this rulemaking process.

Rulemaking Advisory Committee (RAC)

A hybrid RAC meeting was convened on October 2, 2023, in Troutdale, Oregon and online. RAC members provided input on the proposed rules, development of a notice of proposed rulemaking, an evaluation of the proposed rule's fiscal impact, and how the proposed rule will affect racial equity in the state.

Members of the RAC include:

- Barbara Adams, Friends of the Sandy River Delta; Oregon Equestrian Trails
- Doug Asboe, Multnomah County Sheriff's Office, HOPE Team
- Stephen Elgart, U.S. Forest Service
- Jared Friend, Hillsboro Heli Academy

- David Keiter, Oregon Department of Fish and Wildlife
- Jeff Schuh, Friends of the Sandy River Delta
- Stephanie Rawson, Waste Prevention and Environmental Services, METRO
- Ray Young, City of Troutdale

These individuals represented a diverse set of stakeholder interest groups, including local and regional governments, state and federal agencies, law enforcement agencies, recreational users, and other affected stakeholders.

Significant outcomes of that process included: adding hunting to the list of exemptions and clarifying that individuals appealing a prohibition shall follow the contested case process, as outlined in ORS 183.413 through 183.470.

Public Review and Comment Period

After the RAC reviewed and approved the impact statements and rule language, a Notice of Proposed Rulemaking was filed with the Secretary of State's office on October 19, 2023. The public review and comment period was held from November 1, 2023, to November 30, 2023, with a hybrid public hearing held virtually via Zoom and in-person at the City of Troutdale on November 15, 2023.

The Department issued a news release to Oregon media and emailed a public notice to inform interested parties and stakeholders of the public review and comment opportunity. The Department also notified Senate President Wagner, House Speaker Rayfield, Senator Bonham, Senator Gorsek, Representative Helfich, and Representative Hudson of the proposed rulemaking. All information (statements, draft rules, RAC meeting recordings and summaries) was posted to the DSL website: <https://www.oregon.gov/dsl/Laws/Pages/Rulemaking.aspx>.

In total, the Department received nine (9) comments; comments received are in Appendix C. Most comments received by the Department supported the proposed rule. Concerns were raised by the public regarding vehicle access for regular trail improvement work conducted by Oregon Equestrian Trails and using Oregon-owned lands for target practice. The Department's response for each comment can be found in Appendix C.

RECOMMENDATION

The Department recommends that the Land Board adopt the proposed rulemaking, OAR 141-088-0036, to establish restrictions on the use of vehicles and discharge of firearms, and the authority to temporarily prohibit, from the Sandy River Delta, individuals who violate these restrictions or who commit criminal acts within the Sandy River Delta.

APPENDICES

- A. Final Rules
- B. Notice of Proposed Rulemaking including the Statement of Need and Fiscal Impact and Draft Rules
- C. Public Comments and DSL Responses
- D. Map of Proposed Restricted Area