Outlook

DSL Rulemaking Comment: Elaine Albrich

From Laserfiche_Forms@dsl.state.or.us <Laserfiche_Forms@dsl.state.or.us>
Date Mon 11/2/2026 3:45 PM
To DSL Rules * DSL <dsl.rules@dsl.oregon.gov>

Department of State Lands has received an online comment on proposed rules:

Date Received: at 11/2/2026 3:45:30 PM

Rule Number: OAR 141-083

Name: Elaine Albrich

Organization or Affiliation (if provided): Davis Wright Tremaine

Email Address (if provided): elainealbrich@dwt.com

Comments:
Hello,

Thank you for the opportunity to comment.

DSL should strike the second sentence in OAR 141-083-0810(9). Revoking for failure to pay within 90 calendar days is punitive and there may be a variety of reasons why payment takes longer than 90 days. At a minimum, DSL should add "or otherwise agreed by applicant and the department" to allow for exceptions.

Thank you for your consideration.

The submitted form and any uploaded files can be viewed in Laserfiche at:
Statelands\Agency\Rules\Public Comments

November 2, 2026

Danielle Boudreaux
Rulemaking Coordinator
Oregon Department of State Lands
775 Summer Street NE, Suite 100
Salem, OR 97301

RE: Public Comments on Proposed Amendments to OAR 141-083 – Undersea Infrastructure Easements

To the Oregon Department of State Lands:

We are concerned that DSL's proposed territorial sea rules would significantly increase the cost of installing and maintaining telecommunications infrastructure in Oregon.

Under OAR 141-083-0855, DSL proposes compensation fees based on the length and diameter of undersea cables, multiplied by the number of years of the easement. The rules also add a new 5% surcharge to fund projects that appear to have no direct connection to the infrastructure paying the fee. We believe these charges go too far. Fees for using state lands should be reasonable, tied to the state's actual costs and direct impacts, and should not become a source of additional revenue.

We are also concerned that the new fees would apply to existing infrastructure when easements are renewed. Companies have already made substantial investments based on the rules and agreements in place at the time. Existing infrastructure should be given a legacy exemption rather than subjected to significant new costs. We also question the proposed 100-year compensation calculation for retired conduit left in place, particularly when removing that infrastructure could cause greater disruption than allowing it to remain.

More broadly, we are concerned about the precedent these rules establish. Telecommunications providers are already facing increasing costs and permitting challenges when accessing public rights-of-way. Oregon should be encouraging investment in critical communications infrastructure, not creating additional financial barriers.

We urge DSL to reconsider the compensation formulas, eliminate the additional 5% surcharge, limit fees to reasonable cost recovery and direct impacts, and give a legacy exemption to existing infrastructure and easement agreements.

Regards,

Fawn Barrie
Oregon Cable Telecommunications Association

Brant Wolf
Oregon Broadband Association

Outlook

DSL Rulemaking Comment: Scott McMullen

From Laserfiche_Forms@dsl.state.or.us <Laserfiche_Forms@dsl.state.or.us>
Date Mon 11/2/2026 3:52 PM
To DSL Rules * DSL <dsl.rules@dsl.oregon.gov>

Department of State Lands has received an online comment on proposed rules:

Date Received: at 11/2/2026 3:52:45 PM

Rule Number: OR 141-083

Name: Scott McMullen

Organization or Affiliation (if provided): OR Fishermen's Cable Committee, Inc.

Email Address (if provided): smcmullen@ofcc.com

Comments:
Oregon Department of State Lands
775 Summer Street NE, Suite 100
Salem, OR 97301
RE: Comments on Revised Proposed Division 83 Rules for Undersea Infrastructure Easements in Oregon's Territorial Sea
Nov.1, 2026
Dear Director Lovell and Members of the Department:
The Oregon Fishermen's Cable Committee (OFCC) appreciates the opportunity to comment on the revised proposed Division 83 rules governing undersea infrastructure easements within Oregon's Territorial Sea. OFCC has long supported a cooperative approach to the siting, operation, protection, and maintenance of submarine telecommunications cables while preserving the rights and livelihoods of Oregon's commercial fishing industry.
We acknowledge that the Department has made several significant improvements in response to stakeholder comments. In particular, the clarification that existing easements are not immediately subject to the new rules, the addition of discretion to waive elements of the Resource and Use Inventory, the replacement of the requirement to evaluate "all possible" outcomes with "reasonably foreseeable" outcomes, the addition of confidentiality protections, and the creation of temporary encroachment easements for bore pipes are constructive changes that improve the rule package. [Div 83_Dra...ions - Web | PDF], [Div 83_Dra...9-26 - Web | PDF]
Despite these improvements, OFCC remains concerned that several provisions continue to impose unnecessary burdens on existing cable operators, create uncertainty for future infrastructure investments, and establish a regulatory process that exceeds what is reasonably necessary to protect

Oregon's public trust resources.

1. Easement Renewals Should Not Be Treated Like New Projects

One of most significant unresolved issues involves the treatment of easement renewals. The proposed rules subject renewal applications to extensive review processes, including possible JART review, public review, State Land Board approval, renewed environmental scrutiny, and evaluation under numerous discretionary standards. [Div 83_Dra...ions - Web | PDF], [Div 83_Dra...9-26 - Web | PDF]

Existing cables have already undergone extensive federal, state, and local review before installation. Once a cable has operated for decades without demonstrated impacts to public trust resources, fisheries, navigation, or marine habitats, requiring a renewal applicant to effectively re-justify the original project serves little regulatory purpose.

OFCC recommends that renewals be limited to determining whether:

• The easement holder remains in compliance with applicable laws and permit conditions;
• The infrastructure is operating as authorized; and
• No material changes to the infrastructure or use are proposed.

If those conditions are met, renewal should be administrative rather than discretionary.

2. Bore Pipes Should Not Be Treated as Unauthorized Encroachments

The rules continue to classify infrastructure left behind following decommissioning as an encroachment requiring separate authorization and compensation. While the Department has created temporary encroachment easements for bore pipes, the underlying concern remains. [Div 83_Dra...ions - Web | PDF], [Div 83_Dra...9-26 - Web | PDF]

Horizontal directional drilling (HDD) conduits and bore pipes are installed specifically because they convey the cable from shore to sea without causing substantial environmental disturbance. Their presence beneath beaches and nearshore areas does not interfere with navigation, fishing, recreation, or other public trust uses. Without question HDD bores are the best way to cross the shore/sea transition.

The Department should expressly recognize that:

• Bore pipes are an integral component of the original cable installation;
• Bore pipes that cannot reasonably be removed should not be deemed unauthorized encroachments;
• Continued occupancy by an inactive bore pipe should not trigger a new permit process, public review process, or substantial compensation obligation.

3. Encroachment Compensation Remains Excessive

Although the Department has reduced temporary encroachment fees for bore pipes, the proposed compensation schedule for permanent encroachments remains disproportionate to any demonstrable impact on public trust resources. [Div 83_Dra...ions - Web | PDF], [Div 83_Dra...9-26 - Web | PDF]

A permanent encroachment fee based on a 100-year term produces compensation obligations that can reach millions of dollars for facilities that are buried, inaccessible, and incapable of interfering with other ocean users.

OFCC requests that the Department establish a separate fee category for legacy bore pipes and similar infrastructure that:

• Reflects actual impacts rather than hypothetical occupancy;
• Recognizes the potential economic value to the state associated with unoccupied conduits potentially being used for future projects; and
• Avoids creating punitive financial obligations for infrastructure that cannot practically be removed.

4. The SLEF Surcharge Lacks a Clear Nexus to Cable Easements

The proposal imposes an additional five percent Submerged Lands Enhancement Fund surcharge on new, renewal, temporary, and permanent easements. [Div 83_Dra...ions - Web | PDF], [Div 83_Dra...9-26 - Web | PDF]

OFCC is concerned that the record does not establish a sufficient nexus between submarine cable projects and the mitigation activities funded through the SLEF program. The Department has not

demonstrated that cable easement projects create impacts requiring additional mitigation beyond existing permit requirements. A public comment regarding kelp which the Department of State Lands was partially the reason for adding the surcharge was min-informed. Kelp need rock structure to attach to. Cables in Oregon are routed through soft, sandy seabed. There is no remediation or restoration needed as the seafloor returns to its original condition within hours of installation in the nearshore environment.

Regulatory fees should bear a reasonable relationship to the impacts being addressed. A surcharge that functions primarily as revenue generation raises concerns regarding fairness and legality. Accordingly, OFCC recommends eliminating the surcharge for cable easements or, at minimum, limiting it to circumstances where measurable project-specific impacts are identified.

5. Tribal Consultation Should Be Clearly Defined and Limited to Relevant Impacts

OFCC supports government-to-government consultation with federally recognized Tribes. However, the proposed rules provide little guidance regarding how tribal comments will be considered, what issues may properly be raised, or when an applicant may be required to respond. [Div 83_Dra...ions - Web | PDF], [Div 83_Dra...9-26 - Web | PDF]

The rules should specify that consultation focuses on matters directly related to the proposed project and within the Department's statutory authority, including cultural resources, archaeological resources, and identified environmental impacts.

Without clear limits, applicants face uncertainty regarding review timelines, evidentiary requirements, and the scope of issues that may become conditions of approval.

6. The Department's Review Authority Remains Overly Broad

The proposed rules authorize repeated information requests, suspension of application review, public meetings, JART reviews, third-party technical reviews at applicant expense, and broad discretionary denial standards. [Div 83_Dra...ions - Web | PDF], [Div 83_Dra...9-26 - Web | PDF]

While some discretion is appropriate, applicants need a predictable regulatory pathway. Oregon's Territorial Sea already contains extensive federal and state review mechanisms for undersea infrastructure.

OFCC recommends:

• Establishing clear timelines for agency decisions;
• Requiring specific written findings when additional information is requested;
• Limiting third-party consultant reviews to situations involving demonstrable technical necessity; and
• Requiring objective standards for permit denial.

7. Existing Infrastructure Provides Significant Public Benefits

Submarine telecommunications cables are critical infrastructure connecting Oregon to national and global communications networks. The proposed rules appropriately recognize that undersea infrastructure serves important public purposes. [Div 83_Dra...ions - Web | PDF], [Div 83_Dra...9-26 - Web | PDF]

The regulatory framework should therefore encourage responsible investment and maintenance rather than create barriers to operation, repair, renewal, and eventual replacement.

A predictable permitting system benefits the public, cable operators, coastal communities, and ocean users alike.

Conclusion

OFCC appreciates the Department's willingness to modify several provisions in response to stakeholder concerns. However, substantial issues remain regarding renewals, encroachment provisions, bore pipe treatment, compensation requirements, tribal consultation procedures, and the overall level of regulatory discretion.

We respectfully request that the Department further revise the proposed rules to provide a clearer, more predictable regulatory framework that protects public trust resources while recognizing the practical realities of submarine cable installation, operation, renewal, and decommissioning.

Thank you for your consideration of these comments.
Sincerely,
Oregon Fishermen's Cable Committee
By: _/Scott McMullen /_____
Scott McMullen
Executive Director

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DSL Rulemaking Comment: Scott McMullen

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Department of State Lands has received an online comment on proposed rules:

Date Received: at 11/2/2026 3:45:30 PM

Rule Number: OR 141-

Name: Scott McMullen

Organization or Affiliation (if provided): self

Email Address (if provided): smcmullen@ofcc.como

Comments:
The DSL proposed 5% surcharge for restoration activities in the territorial sea is unjustified, and maligns an industry that has a very good record on cable installations leaving no measurable impact on Oregon's Territorial Sea. Where sea plow do create a trench an lay a cable, the dynamic nearshore ocean naturally restores the seabed in mere hours. Inspections in the nearshore area repeatedly show no evidence of the buried cables. They are only located by using a form of a metal detector. Please remove this unfair addition to the draft rules.

The submitted form and any uploaded files can be viewed in Laserfiche at:
Statelands\Agency\Rules\Public Comments

DATE: November 2, 2026
TO: Director Kaitlin Lovell
cc: Governor Tina Kotek, Secretary of State Tobias Read, State Treasurer Elizabeth Steiner
SUBJECT: Comments on Revised Division 83 Rules Regarding Subsea Cable Infrastructure and Easements

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Dear Director Lovell,

Thank you and the Department of State Lands (DSL) for your continued engagement on the proposed Division 83 rules. We appreciate the recent revisions to the draft rules. Specifically, we welcome the added confidentiality protections for proprietary information, the inclusion of continuous electronic monitoring to satisfy seismic inspection requirements, and the removal of the specific compensation uplift for HDD bore pipes. These are positive steps that reflect a collaborative approach.

There remain several opportunities to further improve the clarity of the rules to support beneficial digital infrastructure investment in Oregon. We highly appreciate the inclusion of the temporary encroachment easement and the option to seek limited extensions. However, as written, the language implies that an easement holder must have an agreement in place with a new user *before* the department is able to grant the temporary encroachment easement. There are significant reasons this is an unreasonable requirement.

- First, while the expected life of a cable system is generally 25 years, cable owners are incentivized to extend that life as long as possible to maximize the value of the investment. A decision to decommission a cable system and transfer the associated easement may simply occur too late in the 25-year lifespan to identify a candidate transferee–let alone secure an agreement–in time to meet the DSL's proposed requirements for temporary encroachment.

- Second, an HDD conduit has a much longer lifespan than a cable system, regardless of whether the conduit is occupied. The easement holder may retain an unoccupied conduit for years beyond the life of a cable system, without meaningful loss of the underlying value of the conduit as a transferable, usable asset. It is unrealistic for the easement holder to seek to transfer the longer-lived conduit before making a decision about the shorter-lived cable system that occupies it.

- Third, that long-lived utility of an HDD conduit could result in a scenario where the opportunity to transfer or reuse the asset arises after it is placed under a permanent encroachment easement, long after the six years of temporary easements expire. Reuse

of the conduit would be subject to a new easement for 25+ years of active use, followed by another cycle of temporary and permanent encroachment fees.

Therefore, we recommend that the DSL reduce the requirement to seek a temporary encroachment easement to payment of the application and compensation fees, as reflected in the revised rules, only. The limited term and number of available extensions–coming at the end of a 25-year easement to operate a subsea cable system–highly incentivizes industry to pursue all available options to transfer the easement to a suitable user before abandoning the asset and meeting the requirement for a permanent encroachment. Additionally, we recommend that all compensation fees paid during the temporary encroachment, including any extension(s), be credited toward the fees owed for a permanent encroachment. Similarly, any unelapsed period of years under permanent encroachment should be creditable to easement fees for future reuse, to avoid a duplication of fees for parties seeking to minimize seabed disturbance through reuse of existing infrastructure.

We also must continue to emphasize the critical need for objective standards, firm completeness review timelines, and guaranteed holdover protections during the easement renewal process. We note that the revised draft added language stating the department "may extend" an active easement while reviewing a renewal application. Unfortunately, a discretionary extension does not provide the regulatory certainty required for global infrastructure. For easement holders in full compliance with regulatory requirements, guaranteeing the extension of an active easement for the duration of the renewal review would provide necessary certainty without precluding the outcome of the renewal application before the DSL.

Crucially, this uncertainty does not just affect future deployments; it poses an immediate and severe operational risk to our existing, active cable infrastructure in Oregon. For cables already in service, an unexpected lapse in state easement status—driven by unbounded reviews or denied holdovers—can immediately jeopardize ongoing maintenance, disrupt live data transmissions, and create critical vulnerabilities for active global networks.

Subsea cable operations are inextricably tied to rigid, multi-year federal permitting and operational timelines, including Federal Communications Commission (FCC) licensing and U.S. Army Corps of Engineers reviews. These federal timelines could be severely affected if a state easement is allowed to lapse during the renewal process. Specifically, if the state lacks a guaranteed holdover protection or has an unbounded timeline for reviewing an application, an unintentional lapse could trigger cascading delays that disrupt federal compliance, stall maintenance, and derail carefully orchestrated global business plans.

We note that there are existing Oregon precedents, such as the DSL Removal-Fill Rules under OAR 141-085-0555(1) and ORS 196.825, that explicitly mandate Department review within 30

calendar days of receiving an application to determine if it is complete and adequately addresses all requirements. We hope this could serve as a useful template for Division 83 rules. If not, we suggest the Department look to federal regulations which require action by the FCC within 45 days of public notice for previous/low-risk applicants, or 90-120 days for applicants subject to more complex, multi-agency review. In these federal processes, timeline extensions for extraordinary circumstances are available to regulators, but the clear expectation for baseline processing provides real value to investors seeking clarity on when a determination will be made.

We share Oregon's goal of protecting coastal resources and ensuring responsible stewardship of submerged lands. Thank you for your consideration and for your engagement thus far.

Sincerely,

Google, LLC	Alaska Communications
Oregon Fishermen's Cable Committee	Verizon Communications, Inc.
Amazon Web Services, Inc.	AT&T, Inc.
Sealink Networks, Inc.	Microsoft Corporation

Outlook

Public comment — OAR Chapter 141, Division 83 (territorial sea and ocean shore easements)

From xuchanda15@gmail.com <xuchanda15@gmail.com>
Date Mon 10/26/2026 11:00 AM
To DSL Rules * DSL <dsl.rules@dsl.oregon.gov>

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To the Oregon Department of State Lands,

I am writing about the proposed rewrite of the easement rules in OAR Chapter 141, Division 83, for infrastructure in Oregon's territorial sea and on the ocean shore.

My position is simple: easements should not be routed through tide pool areas or bay areas. Tide pools are living habitat — small, fragile, and irreplaceable once they are trenched or crossed. Bay areas are nursery ground and working water for fish, shellfish, and the people who depend on them. Infrastructure can be routed around these places. The harm from routing through them cannot be undone.

The draft at OAR 141-083-0850(4)(a)(A) already tells holders to avoid protected and environmentally sensitive areas, and OAR 141-083-0831 requires an inventory of all habitats along a proposed route — but the words "tide pool" appear nowhere in these rules, and tide pools and bay areas are not named as places to avoid. They should be.

I ask that the final rules prohibit easements through tide pool and bay areas, and require applicants to show they considered routes that avoid them.

I am deaf, so I am submitting my comment in writing.

Thank you for considering it.

Nok Xu
Keizer, Oregon