



OAR 141-088-0036 RAC Meeting Summary

October 2, 2023; 11:00 a.m.

Overview

The OAR 141-088-0036 Rulemaking Advisory Committee was convened by the Oregon Department of State Lands (DSL or Department) on October 2, 2023, via Zoom. The RAC was convened to provide input on proposed for Restrictions for State-Owned Property at the Sandy River Delta in Multnomah County.

RAC Members and Attendance

Name	Affiliation	Present?
Members		
Barb Adams	Friends of the Sandy River Delta; Oregon Equestrian Trails	Y
Doug Asboe	Multnomah County Sherrif's Office, HOPE Team	Y
Stephen Elgart	U.S. Forest Service	Y
Jared Friend	Hillsboro Heli Academy	Y
Dave Keiter	Oregon Department of Fish and Wildlife	Y
Stephanie Rawson	Waste Prevention and Environmental Services - Oregon Metro	Y
Jeff Schuh	Friends of the Sandy River Delta	Y
Ray Young	City of Troutdale	Y
Staff/Advisors		
Danielle Boudreaux	Department of State Lands	Y
Chris Castelli	Department of State Lands	Y
Morgan Dally	Department of State Lands	Y
Blake Helm	Department of State Lands	Y
Interested Parties		
Shawn Priddle	Oregon State Marine Board	Y

Welcome and Introductions

Blake Helm, DSL Proprietary Specialist, welcomed the group and introduced themselves and asked attendees to also introduce themselves to the group.

Agenda Review; Zoom Protocols

Danielle Boudreaux, Facilitator and DSL Rules & Records Coordinator, explained the agenda and Zoom protocols for the meeting including utilizing the chat and hand raise function to be called on by the facilitator.

Rulemaking Process; Operating Principles; RAC Role

Danielle Boudreaux then outlined the rulemaking process and the RAC operating principles and procedures. The expectations for the RAC members being that all members will review all background materials provided to understand the issues for discussion. Participate in the RAC meeting and work collaboratively to achieve consensus and develop recommendations.

The Department role is to provide technical and administrative support, information, institutional knowledge and expertise, and advice to the RAC. The Department will also be responsible for scheduling meetings, preparing meeting summaries, and maintaining a public record of the RAC process.

The facilitator's role will ensure a safe, welcoming environment where all members can participate. Conduct meetings to foster collaborative decision-making and consensus building. Distribute meeting summaries that outline the topics discussed, the areas where there is agreement, and any remaining issues on which agreement was not reached. Information disclosed in confidence to the facilitator will be kept confidential, though written communications may be subject to public records law.

Finally, the role of interested parties includes individuals with a desire to stay informed about the rulemaking process, Department employees or external stakeholders providing technical feedback, and all are nonvoting advisors that may provide written feedback after the meeting.

All participants are expected to be respectful of others and act in good faith through all aspects of the RAC process. A consensus model will be used to facilitate the decision-making. Consensus is a participatory process where the RAC members strive for recommendations that they can accept, support, live with, or agree not to oppose. When consensus cannot be reached, the facilitator may invite documentation of differing opinions or viewpoints. RAC members should be advised that all rulemaking records, including formal documents, rule drafts, meeting summaries and exhibits, meeting recordings, and communications, are public records and may be released in response to a public records request.

Rulemaking Purpose & Scope

Blake Helm explained the purpose and scope of the rulemaking.

DSL's public safety partners are reporting increased vehicle use and discharge of firearms at the Sandy River Delta. These permanent use-restrictions are meant to protect public health and safety and the environment. This rulemaking process is DSL's opportunity to get feedback directly from those affected by this rule. DSL will factor significant feedback from the RAC into the proposed rule language, then the

final proposed use-restrictions will be released for public review. After relevant public input has been considered, DSL intends to make a final recommendation on use-restrictions to the State Land Board in February of 2024.

The Department and partners are receiving increased reports of vehicles being driven and parked on state-owned lands, and of firearms being discharged. Concerns with these uses include:

Firearm discharge puts people using the natural area at risk. Thick brush reduces visibility past 100 yards in most places. In addition, Troutdale Airport is directly across the river and aircraft frequently fly directly overhead.

- Driving and parking in the natural area creates safety and health risks. Since trails are unlit and for pedestrian use only, the use of vehicles on them increases the risk and likelihood of injury. Fire risk is also increased when vehicles access the natural area as the heat from the engine and exhaust can ignite dry brush. The area has no maintained roads, and therefore vehicles park over brush.
- Additionally, vehicles leak fuel, oil, and other toxic liquids, and introduce exhaust, affecting both human and environmental health. They can damage vegetation, create rutted trails, and increase runoff and soil erosion through soil compaction, both of which contribute to the degradation of water quality.

Discussion – Draft Rule

RAC members agreed that an exception for hunters be included in the rule text. The following statement was added to the proposed language: “waterfowl hunters on foot during waterfowl hunting season in possession of a legal hunting license.” Dave Keiter of ODFW offered to provide additional language for clarification; the suggested language added to the proposed rule text reads, “waterfowl hunters on foot with shotgun only during authorized waterfowl hunting season and in possession of a legal hunting license.”

RAC members asked what the process of requesting a hearing would entail (i.e., who would conduct the hearing). DSL informed the RAC that they would discuss this with DOJ to clarify if the intent is to go through an administrative law judge with a contested case hearing. DSL proposes the following language for clarification: “The person subject to the prohibition may appeal the decision and request a contested case hearing pursuant to ORS 183.413 through 183.470 by submitting a written request within 20 calendar days of the date of service of the notice.”

Discussion – Draft Fiscal Impact Statement

No discussion.

Discussion – Draft Racial Equity Statement

No discussion.

Interested Party Comments

No comments.

Next Steps

Danielle outlined the next steps in the rulemaking process. It is anticipated that the Notice of Proposed Rulemaking will be published on November 1, 2023, which will begin a 30 day public comment period. A public rule hearing will be scheduled for November 15, 2023. The proposed rule language will be presented to the State Land Board in February 2024 and upon approval the rule language will become effective upon adoption.