



Rulemaking Advisory Committee

Permitting and Mitigation in
Oregon's Wetlands and Waters
(Division 85)

April 2, 2025

Amazon Prairie – Mitigation Site / Melody Rudenko, DSL



Meeting Agenda

Amazon Prairie – Mitigation Site / Melody Rudenko, DSL

9:00 AM	Introductions, Agenda Review, Zoom Protocols
9:20 AM	Presentation – RAC member interviews
9:25 AM	Presentation - Background and Context for Permitting and Jurisdictions
9:45 AM	Discussion – Permit and Jurisdiction; Draft Rules
10:45 AM	Interested Party Comments
10:55 AM	Next Steps
11:00 AM	<i>Meeting ends</i>

Meeting Goals: Discussion of the proposed draft rules relating to permitting and jurisdictions.

Rules being addressed today



- **Highest Measured Tide definition - 141-085-0510(42)**
- **Addition of an EBEM option - 141-085-0515(2)**
- **Related Adjacent Land definition - 141-085-0510(85)**
- **Aquatic Resources of Special Concern definition - 141-085-0510(3)**
- **Habitat Restoration definition - 141-085-0510(41)**
- **Removal of private and commercial operator definition - 141-085-0510(16) & (79)**
- **Exemptions for Certain Activities and Structures - 141-085-0530**

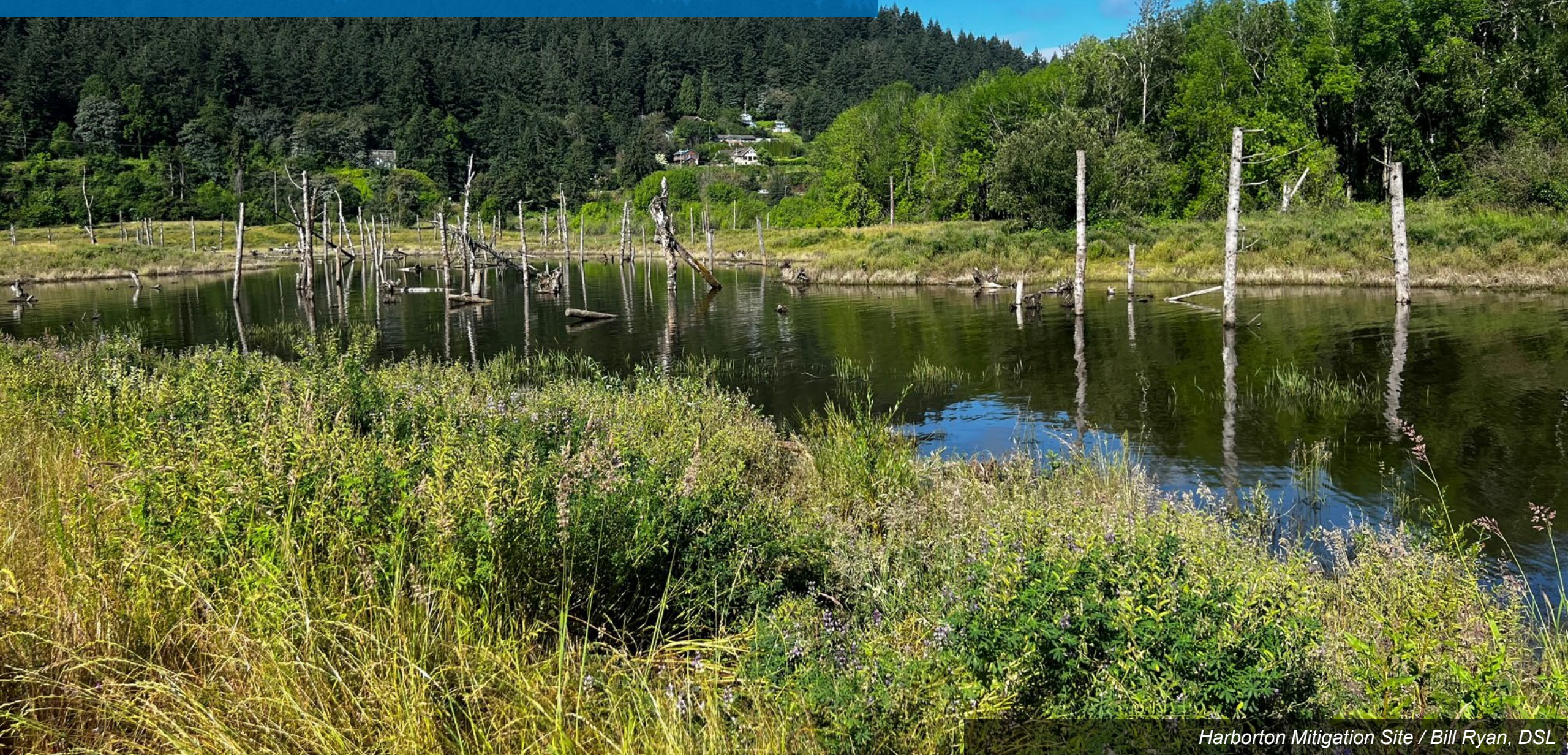
Zoom Protocols



Each person who wishes to speak will be asked to raise their hand.

- To raise your hand, click the reactions near the bottom of your screen and click “raise hand” or by pressing star 9 if you are on the phone.
- Will seek a balance of speaking time during discussions
- *For technical support, please message us in the chat.*
- Please keep your mic muted unless it is your turn to speak. Use of video is encouraged.
- Closed captions are available.
- Please use the chat for questions and comments
- We ask that all participants be respectful of each other and DSL representatives.

RAC Member Interviews: What We Heard



RAC Member Interviews

Expertise

- Conservation
- Mitigation and banking
- Mapping
- Permitting
- Policy development
- Academic and scientific background

Priorities

- Clarity and consistency in mitigation banking, and accounting/calculating credits
- Regulatory clarity and alignment with other state, local, and federal policy
- Considerations for barriers to entry and access to resources and expertise
- Balancing needs for multiple entities
- Considerations for scope, scale, and intention of project

Background: Changes to Jurisdiction Language



Highest Measured Tide



Clarifying the Definition

- OAR 141-085-0015(44) "Highest Measured Tide" means the highest tide projected from actual observations within an estuary, tidal bay, or tidal river.
- Tidal rivers are listed as a component of the "Tidal Waters" definition.
- Creates better consistency amongst definitions in rule.

Highest Measured Tide



OAR 141-085-0515(2) Estuaries, Tidal Bays and Tidal Rivers

Additional option for reporting jurisdictional elevation:

- Adds an elevation-based estuary model to the other methods of reporting elevation.
- Developments in LiDAR and West Coast estuary modelling provide predictive modelling that can allow for narrowing in on relevant elevations.

Highest Measured Tide (*cont.*)



OAR 141-085-0515(2) Estuaries, Tidal Bays and Tidal Rivers

Additional option for reporting jurisdictional elevation:

- Addresses some challenges for determining jurisdictional limits based on current methods.
 - Scarcity of tide stations on the Oregon Coast and Columbia River.
 - Physical indicators may be false positives/negatives depending on day of field work.
 - Storm surge debris; visible debris or water marks; higher events covered up by current season's vegetative growth.

EBEEM



Elevation-Based Estuary Extent Model (EBEEM)

- EBEEM models estuary extents in estuaries, tidal bays, and tidal rivers.
- Funded by a multi-state grant awarded to the Pacific States Marine Fisheries Commission and led by Dr. Laura Brophy from the Institute for Applied Ecology.
- Combines LiDAR digital elevations with water level models to establish an elevation-based estuary extent map for California, Oregon, and Washington.

EBEEM

(cont.)



Elevation-Based Estuary Extent Model (EBEEM)

- EBEEM selects the water surface elevation that is exceeded half of the years of the 100-year period of record.
- EBEEM is already in use by Oregon's Department of Land Conservation and Development for statewide planning Goal 16 (estuarine resources) and Goal 17 (shoreline).

EBEEM

(*cont.*)



Elevation-Based Estuary Extent Model (EBEEM)

- Allows for a pre-field review of a modelled elevation, that can then be adjusted up/down in the field based on other field-based indicators already established in OAR 141-085-0515(2).
- Hosted by the Pacific Marine & Estuarine Fish Habitat Partnership and available for free download
<https://www.pacificfishhabitat.org/data/estuary-extents>.



OAR 141-085-0520(1), Removal-Fill Jurisdiction by Volume of Material

Updating this section of rule (Oregon State Scenic Waterways) and related definitions to match statute and OAR 141-100 (Administrative Rules Governing the Issuance and Enforcement of Removal Fill Permits in State Scenic Waterways).



*Koosah Falls – McKenzie River /
Dan Cary, DSL (retired)*

Related Adjacent Land

- Defined in ORS 390.805(1).
- Wetlands within related adjacent lands are subject to 0 cy threshold, “except land that, in Oregon Parks and Recreation Department’s judgment, does not affect the view from the waters within a scenic waterway.”
- Scenic waterways include related adjacent land.

Interested Party Comments

Please raise your hand
to speak.

Please keep comments
limited to 3 minutes.



Interested Party Comments



Use the "Raise Hand" feature to provide community input. Time is limited and we may not be able to hear from all of you today.

- To raise your hand, click the reactions near the bottom of your screen and click "raise hand" or by pressing star 9 if you are on the phone.
- You will be called in the order in which hands are raised.
- Please keep your mic muted unless it is your turn to speak.

When it's your turn to speak:

- When your turn is coming up, the moderator will call on you to begin speaking.
- Please say your name, where you're from, and any organization you're representing.
- Please keep your remarks to three minutes and be respectful of each other and agency representatives. We will help track your time.



What's Next?

Middle Fork – Willamette River / Dan Cary, DSL (retired)

- The next RAC meeting is May 21.
 - A meeting agenda will be sent by May 14, with a list of the rules to be presented.
 - Office hours for RAC members will be held at 10 a.m. on Monday, May 19. These office hours will be for technical questions and answers in preparation for the May 21 RAC meeting.
- In the next week, a meeting summary will be sent to RAC members and today's meeting recording will be posted.
- All meeting materials will be posted to DSL's Rulemaking website:
www.oregon.gov/dsl/Pages/rulemaking.aspx



Thank You!

Facilitator

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Oregon.gov/DSL



Middle Fork – Willamette River / Dan Cary, DSL (retired)