



Oregon

Tina Kotek, Governor

Department of State Lands

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State Land Board

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Regular Meeting October 10, 2023 Agenda Item 3

LaVonne Griffin-Valade
Secretary of State

Tobias Read
State Treasurer

SUBJECT

The Department of State Lands requests approval to permanently adopt OAR 141-088-0250, Periodic Closure for State-Owned Property on Crump Lake in Lake County. This rule would periodically restrict public access to Crump Lake, beginning at the southern boundary of Township 38 South, terminating at Stone Bridge located at 42.354731 degrees North, 119.838867 degrees West, in Lake County.

ISSUE

Whether the State Land Board should approve adopting rules for periodic closure restricting public use within and around Crump Lake, based on water levels determined by the Department of State Lands. Restricting access during times when the dry lakebed is exposed will support protection of natural and cultural resources.

AUTHORITY

Oregon Constitution, Article VIII, Section 5, specifies that the State Land Board is responsible for managing Common School Fund lands.

ORS 273.041 to 273.071; authorizes 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; relates to the public recreational use of state-owned property and provides the Department, in consultation with the State Land Board, authority to restrict

the use of state-owned lands when the closure is necessary to protect human life, health, or safety; to prevent loss of, or damage to property; to protect natural, historical, cultural, or archeological resources; or to prevent damage to the environment.

BACKGROUND

On February 7, 2023, the State Land Board approved initiation of rulemaking to determine how public use restrictions on state-owned lands in and around Crump Lake could protect cultural and natural resources. Since 2014, the Department has received reports from State Police, community members, and local Tribes regarding property damage, vandalism, and looting of cultural artifacts. Frequent droughts expose the lakebed, making these issues worse.

Crump Lake is part of the Warner Valley closed basin system and connected to a series of shallow lakebeds that flow south to north. The area has experienced many, long-lasting droughts in recent years, causing roughly 13,500 of 15,000 acres to dry out completely. The exposed lakebed can take several years to fill back up, and conversely, multiple years to dry out. The variability of the water levels is significant over time.

During these dry years, people are able to travel by foot and vehicle across the exposed lakebed. Since 2014, DSL Directors have implemented temporary emergency restrictions to all public uses during low water conditions. Those temporary measures have been effective at mitigating negative impacts and have been lifted when the water levels are high enough that cultural and natural resources are once again protected.

The Department has been using satellite imagery to track the water levels at Crump Lake. That data informed the rulemaking process, specifically in establishing water level conditions and indicators for the initiation or removal of public access restrictions. These rules will allow access for government personnel, emergency responders, permitted big-game hunters, lessees and adjacent landowners when needed for property inspection or maintenance.

PUBLIC INVOLVEMENT

The Department took into consideration public comment, input from the Rulemaking Advisory Committee, and input from other local and state agencies, Tribal governments, and affected stakeholders during this rulemaking process.

Rulemaking Advisory Committee (RAC)

A hybrid (in person and virtual) RAC was convened in Lakeview, Oregon twice, in April and May 2023, to review and provide input on the proposed rule, development of a notice of proposed rulemaking, and an evaluation of fiscal impact and racial equity statements. The following individuals served as members of the RAC:

- James Williams, Lake County Commissioner
- Blake Dornbusch, Bureau of Land Management
- Les Anderson, Klamath Tribes

- Ryan Tague, Oregon State Police
- Ryan Niehus, Oregon State Police
- Joshua Novac, Oregon State Police
- Joe Cahill, Local Citizen/DSL Lessee
- Tyler Dungannon, Oregon Hunters Association
- Mike Totey, Oregon Hunters Association

The RAC detailed boundaries of the closure, established exceptions for hunters, and identified appropriate water levels that would trigger periodic closures.

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 June 26, 2023. The public review and comment period was held from July 1, 2023, to July 31, 2023, with a hybrid public hearing held online and in-person at Lake County Courthouse on July 26, 2023.

The Department issued a news release to Oregon media and a public notice to interested parties and stakeholders regarding the public review and comment period. The Department also notified Senate President Wagner, Speaker Rayfield, Senator Findley, and Representative Owens. 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 one written comment, which can be found in Appendix C. The comment received opposed the closure and questioned the validity of cultural resource concerns of the area. No oral comments were made during the public rule hearing.

RECOMMENDATION

The Department recommends that the Land Board adopt OAR 141-088-0250, to establish the periodic closure for State-Owned Property located within and around Crump Lake. If adopted, the proposed rule will go into effect on November 1, 2023.

APPENDICES

- A. Final Rule
- B. Notice of Proposed Rulemaking including the Statement of Need and Fiscal Impact and Draft Rule
- C. Public Comments
- D. Crump Lake Map