

OAR 141-142 Rulemaking: Rocky Shore Habitat Designations



Comments & Agency Response

The comment period was open from October 1, 2024, to October 31, 2024, at 5:00 PM. The Department received 1 set of comments in total, which were received via a PDF letter (attached at the end of this document).

Learn more about DSL rulemaking at: <https://www.oregon.gov/dsl/Pages/rulemaking.aspx>

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Brad Kneaper, Chair, Tribal Council, Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians (via Meagan Davenport) – October 30, 2024 (letter dated); October 31, 2024 (letter received)

Comment (excerpt from letter):

The Tribe supports the changes, but requests that Tribal provisions of the Sea Plan be included in a new Tribal stand-alone section of the administrative rules. Specifically, the Tribe requests that the following language (from the Sea Plan) be incorporated in the rule:

- These rule, the Territorial Sea Plan, and their implementation do not affect consent decrees or other agreements between the State of Oregon and any Oregon federally recognized tribe or any state agency policy recognizing tribal rights in rocky habitat areas.
- All affected Oregon federally recognized tribes shall be provided the opportunity for consultation regarding any action, including the planning, taking place in the rocky habitat areas.
- Impacts to cultural resources or historic properties in rocky habitats shall be avoided, minimized, or mitigated, in consultation with affected Oregon federally recognized tribes and as determined by the State Historic Preservation Office or Tribal Historic Preservation Office, as appropriate.

Agency Response:

Dear Chair Kneaper:

Thank you for your supportive comments submitted on behalf of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians (CTCLUSI) regarding the Department of State Lands (Department) proposed rulemaking for OAR 141-142. Confirmation of receipt of those comments was provided to CTCLUSI on October 31, 2024.

The Department has considered the comments and supports adding the new provisions to OAR 141-142. After consultation with the Department of Justice (DOJ), minor changes to the provisions were made to ensure any requirements apply to, and are implementable, by the Department. In regard to CTCLUSI's request for a stand-alone rule, the rulemaking process prevents the Department from creating a stand-alone rule at this point, as any new rule must be circulated to the public for comment and review. However, the Department has incorporated the provisions as three new sections under the General Provisions rule, OAR 141-142-0220(7-9).

The Department also sought input from Tribal staff to better understand the intent of CTCLUSI's comments and is committed to ongoing conversation on this topic at the Tribe's request. The Department believes that through our outreach to CTCLUSI, internal discussions, and consultation with DOJ we have addressed the main points and concerns of CTCLUSI.

Please reach out if you have any questions or would like to discuss the Department's rulemaking efforts in more detail.

The Department appreciates CTCLUSI's thoughtful comments and participation in the rulemaking process.



**CONFEDERATED TRIBES OF
COOS, LOWER UMPQUA AND SIUSLAW INDIANS
TRIBAL GOVERNMENT**

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October 30, 2024

Vicki L. Walker, Director
Oregon Department of State Lands
775 Summer St. NE
Salem, OR 97301-1279

SENT VIA EMAIL (Vicki.walker@dsl.oregon.gov)

RE: Comments on OAR 141-142 Rulemaking

Dear Ms. Quan:

This letter is submitted on behalf of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians (“CTCLUSI” or “Tribe”) on the OAR 141-142 rulemaking currently open for public comment by the Department of State Lands (“DSL”).

It is the Tribe’s understanding that the intent of the rulemaking to incorporate updates of Part Three of the Territorial Sea Plan (“Sea Plan”) into the DSL administrative rules in OAR 141-142.

The Tribe supports the changes, but requests that Tribal provisions of the Sea Plan be included in a new Tribal stand-alone section of the administrative rules. Specifically, the Tribe requests that the following language (from the Sea Plan) be incorporated in the rule:

- These rule, the Territorial Sea Plan, and their implementation do not affect consent decrees or other agreements between the State of Oregon and any Oregon federally recognized tribe or any state agency policy recognizing tribal rights in rocky habitat areas.
- All affected Oregon federally recognized tribes shall be provided the opportunity for consultation regarding any action, including the planning, taking place in the rocky habitat areas.
- Impacts to cultural resources or historic properties in rocky habitats shall be avoided, minimized, or mitigated, in consultation with affected Oregon federally recognized tribes and as determined by the State Historic Preservation Office or Tribal Historic Preservation Office, as appropriate.

The Tribe appreciates your consideration of these comments.

Respectfully,

A handwritten signature in black ink, appearing to be 'BK', with a long horizontal flourish extending to the right.

Brad Kneaper
Chair, Tribal Council
Confederated Tribes of Coos, Lower and Siuslaw Indians

cc: Tribal Liaison Ellie Forness, Ellie.S.Forness@dsl.oregon.gov
Rulemaking Coordinator Danielle Boudreaux, DSL.Rules@dsl.oregon.gov