



Oregon

Kate Brown, Governor

Department of State Lands

775 Summer Street NE, Suite 100

Salem, OR 97301-1279

(503) 986-5200

FAX (503) 378-4844

www.oregon.gov/dsl

State Land Board

Kate Brown

Governor

Shemia Fagan

Secretary of State

Tobias Read

State Treasurer

State Land Board

Regular Meeting

February 9, 2021

Agenda Item 5

SUBJECT

Request for approval of the creation of 8.14 acres of New Lands by filling a portion of the State's ownership within Upper Klamath Lake for the expansion of Highway 140 by the Oregon Department of Transportation (ODOT).

ISSUE

Whether the Land Board should authorize the Department to issue an Access Agreement to ODOT to create 8.14 acres of New Lands within Upper Klamath Lake for the purpose of expanding Highway 140, which, would result in the subsequent sale of the New Lands created to ODOT.

AUTHORITY

ORS 265.040; relating to the Departments authority to issue easement on submerged lands.

ORS 274.920; relating to the creation of new lands with approval of the owner of the submerged and submersible lands.

ORS 274.932; relating to the right of a public body to purchase new lands created by it.

OAR 141-068-0100; relating to the Land Board's authority to grant permission to create new lands.

OAR 141-068-0110; relating to the sale of new lands.

OAR 141-122; relating to the Departments authority to issue easements on submerged land.

SUMMARY

On August 12th, 2020, the Department received a completed application from the Oregon Department of Transportation (ODOT) requesting permission to fill in 8.14 acres of submerged land, and creating *new lands* within the State's ownership of Upper Klamath Lake in Townships 37 and 38 South, Ranges 07 and 08 East, for the expansion of Oregon Highway 140 (Hwy. 140). The request also includes 9.12 acres of submerged lands that will require a Right-of-Way (ROW) easement for future maintenance of Highway 140. The proposed created new lands and submerged lands requiring a ROW easement are shown on Appendix B.

OARs 141-068 requires that creation of new lands may only be done with the permission of the owner of the submerged lands on which they are created, as well as the permission of the adjacent upland riparian tax lot owner. In the project location, ODOT is the upland riparian tax lot owner and DSL is the owner of the submerged lands. This application underwent a 30-day public review process and received no comments.

ODOT has completed the Removal and Fill (R/F) application process with the Department and fulfilled their obligations of identifying mitigation locations through permit 61953-RF. ODOT coordinated with the Klamath Tribe during design of the highway project and compensatory mitigation plan.

To complete the highway expansion project, ODOT must receive permission from the Department, and be issued a Short-Term Access Agreement for the construction period of the project. Once ODOT has the Short-Term Access Agreement in place, they may then solicit for construction contracts.

Per ORS 274.932 a public body that creates new lands has the right to purchase those new lands within one year of their creation. The sale of new lands must be approved by the State Land Board, and the compensation for the sale of the new lands cannot be calculated until the new lands are created and surveyed. This will result in a second Land Board request for final approval of the sale of the new lands that will include a surveyed acreage of new lands created and the value at which they will be sold.

RECOMMENDATION

The Department of State Lands recommends the State Land Board approve the Department's issuance of a Short-Term Access Agreement to ODOT for the creation of

approximately 8.14 acres of *new lands* within the States ownership of Upper Klamath Lake in Townships 37 and 38 South, Ranges 07 and 08 East.

APPENDICES

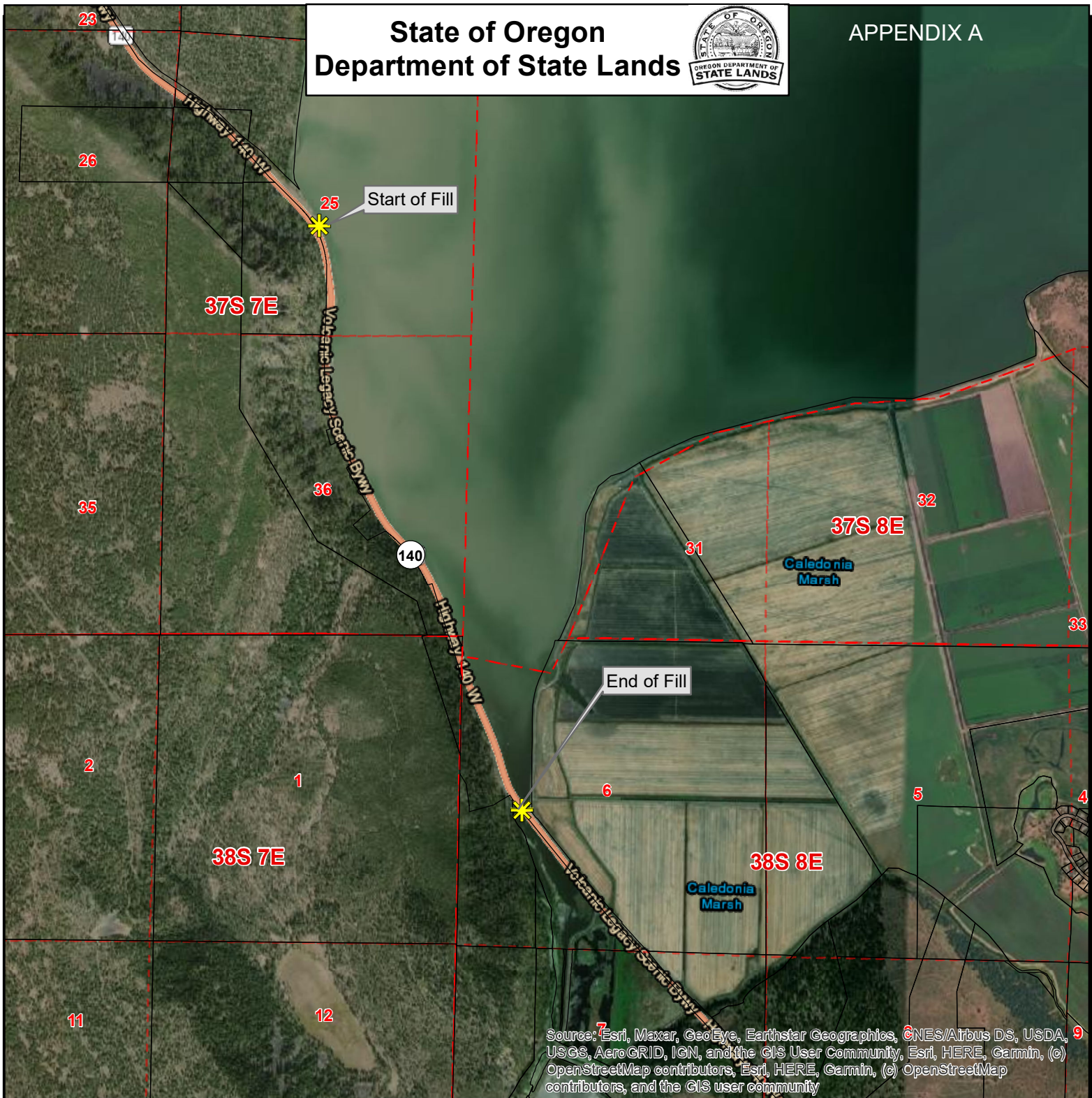
A: Location Map

B: Survey Map

State of Oregon Department of State Lands



APPENDIX A



Source: ⁷Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, Esri, HERE, Garmin, (c) OpenStreetMap contributors, Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community

EXHIBIT A: 62440-LS

T37S, R07E Sec. 25 & 36
T38S, R07E Sec. 1
T38S, R08E Sec. 6
~8.14 acres of Fill/New Lands
Klamath County

- Townships
- Sections
- Tax Lots

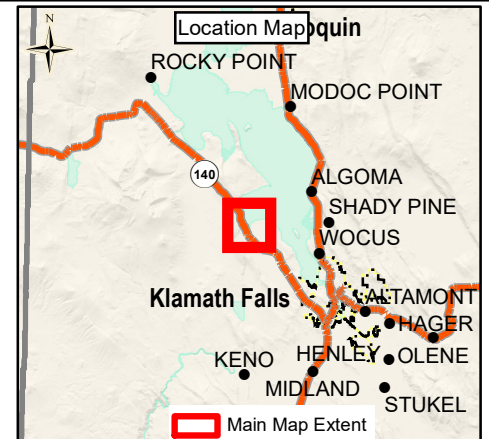
0 0.25 0.5
Miles



Map Projection:
Oregon Statewide Lambert
Datum NAD83
International Feet

State of Oregon
Department of State Lands
775 Summer St NE, Suite 100
Salem, OR 97301
503-986-5200
www.oregon.gov/DSL

Date: 10/29/2020



This product is for informational purposes only and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

