



**OCEAN SHORE
ALTERATION PERMIT**

Application Approved with Conditions:

Application Denied:

Date: October 21, 2016

Applicant: Ken and Judy Graham, Trustees

OPRD File Number: 2867-16

County: Tillamook

Project Location: 50040 S. Beach Road, Neskowin, OR
Tillamook County Assessor's Map #5S-11W-35DA, tax lot 1300

OPRD's review included a staff inspection of the site and evaluation of the project against the Ocean Shore Permit Standards, OAR-736-020-0005 through 736-020-0030.

Project Description:

The applicant seeks to convert the temporary Emergency Permit #BA-677-12, issued on January 25, 2012, into a permanent shoreline protection structure to control bluff erosion and landsliding activity. The proposed permanent structure includes a riprap revetment of approximately 90 feet long and 30 feet in height, and will also include a rock-fill slope of approximately 160 feet in height above beach level, to be covered with double-twist rockfall mesh and replanted.

ORS.390.605 (2) defines the "ocean shore" to mean the land lying between extreme low tide of the Pacific Ocean and the statutory vegetation line as described by ORS 390.770 or the line of established upland shore vegetation, whichever is farther inland. In the location of the proposed project the statutory vegetation line is located farther inland.

The project is proposed to be located

Seaward of the statutory vegetation line

Seaward of the line of established upland shore vegetation

and therefore within OPRD's jurisdiction to make a decision on the application.

Submitted plans: Attached (See Condition 5)

Not Applicable

Based on the evaluation of the above standards, staff inspections of the site, and consideration of public and agency comments, the Oregon Parks and Recreation Department:

Approves your application
For a shoreline protection structure.

Denies your application

Conditions:

1. Within 60 days from the date of this approval, or prior to the installation of the double twist rockfall mesh, whichever occurs first, the Permittee or subsequent owners shall file with the Tillamook County Clerk, a Declaration of Conditions and Restrictions. A form is attached for your use in satisfying this condition. The permittee shall pay any filing and recording costs. Upon recording, certified copies shall be submitted to OPRD as proof of compliance with this permit condition. Failure to provide OPRD with said certified Declarations of Conditions and Restrictions shall nullify this permit and all authorizations contained herein.
2. In accordance with OAR 736-020-0003 (14), the permittee shall obtain General Liability insurance covering bodily injury, death and property damage in a form and with coverage that is satisfactory to the State. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence basis. Applicant shall provide proof of insurance of not less than the following amounts:

Per occurrence limit for any single claimant:

Bodily Injury/Death\$1,000,000
From July 1, 2017 and every year thereafter the adjusted limitation as determined by the State Court Administrator pursuant to ORS 30.271(4).

Property Damage:\$300,000
From July 1, 2017 and every year thereafter the adjusted limitation as determined by the State Court Administrator pursuant to ORS 30.273(3).

Per occurrence limit for multiple claimants:

Bodily Injury/Death:\$1,000,000
From July 1, 2017 and every year thereafter the adjusted limitation as determined by the State Court Administrator pursuant to ORS 30.271(4).

Property Damage\$300,000
From July 1, 2017 and every year thereafter the adjusted limitation as determined by the State Court Administrator pursuant to ORS 30.273(3).

Excess/Umbrella Insurance

A combination of primary and excess/umbrella insurance is acceptable to meet the minimum insurance requirements. If Excess/Umbrella coverage is used, the Certificate of Insurance must include a list of the policies that fall under the Excess/Umbrella insurance. For example: "The Excess/Umbrella policy is excess over General Liability, Auto Liability, etc."

Additional Insured

The General Liability insurance required under this permit shall include the State of Oregon, its officers, employees and agents as Additional Insureds but only with respect to Permittee's activities to be performed under this Permit. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Certificate(S) Of Insurance

Prior to commencement of work authorized in this permit, applicant shall produce satisfactory evidence of such insurance in the form of a certificate from the insuring company indicating that such insurance Permittee shall provide to OPRD, at the following address, Certificate(s) of Insurance for all required insurance before performing any work authorized under this Permit.

Oregon Parks and Recreation Department
Attn: Jay Sennwald
12735 NW Pacific Coast Highway
Seal Rock, Oregon 97365
OR FAX (541) 563-8508

The Certificate(s) must specify all entities and individuals who are endorsed on the policy as Additional Insured (or Loss Payees). Permittee shall pay for all deductibles, self-insured retention and self-insurance, if any.

Permittee shall immediately notify OPRD of any change in insurance coverage.

3. The project, including recording of the required Declaration of Conditions and Restrictions, obtaining certification of insurance, installation of double-twist rockfall mesh, and re-planting/re-seeding of the upper slope shall be completed prior to October 21, 2017. Successful completion of the project and all permit conditions will result in a refund of the \$10,000 performance bond that was submitted with the emergency permit application. If the permit conditions are not complied with by the permit expiration date (October 21, 2017), OPRD may undertake action including removal of project components without further notice to the Permittee and may deduct any and all costs and expenses of accomplishing such work. Use of the cash bond or other security for such purposes does not preclude OPRD from pursuing any other legal remedies or enforcement action at its disposal to ensure that permit conditions are achieved.
4. The details of the double twist rockfall mesh manufacturer's specifications, its proposed location within the project area and the proposed method of its anchoring and tensioning shall be provided to OPRD prior to its installation. These details shall be accompanied by written certification from the project's Professional Engineering Geologist that the proposed rockfall mesh component design, placement, and anchoring on the slope is in general conformance with his recommendation dated April 23, 2016.
5. The project, including installation of the double-twist rockfall mesh, shall be constructed and maintained in accordance with the submitted plans and descriptions, and shall comply with the location, dimensions, and materials specified in the approved plans and descriptions.
6. Immediately after installation of the double twist rockfall mesh, the Permittee shall re-seed and re-plant the rock slope above the riprap as necessary to promote vigorous vegetative growth. The importation of additional top soil to satisfy this standard may be necessary and is encouraged.
7. Upon completion of the project, the beach shall be cleared of all rock debris, or other debris associated with the riprap, rock slope, and double twist rockfall mesh construction, and the beach shall be returned to its pre-existing condition.
8. The Permittee shall be responsible for obtaining any required permit approvals from the U.S. Army Corps of Engineers and the Oregon Department of State Lands, if applicable to this project.
9. The Permittee shall be responsible for maintaining the riprap, rock fill slope, and double twist rockfall mesh structure, or removing it, if in the opinion of OPRD, the structure becomes in disrepair, constitutes a safety hazard, or in any other way becomes deleterious to ocean shore resources. This includes retrieving and replacing rocks or other materials moved or damaged because of ocean wave attack, spalling and rockfall, additional landsliding, or any other cause. Failure to maintain all components of the structure where such failure causes a public safety hazard or detriment to ocean shore resources may cause appropriate legal action to be pursued to ensure compliance with this provision.
10. In no event shall the issuance of the permit be construed as a sale, lease, granting of easement or any form of conveyance of the state recreational area, ocean shore or submerged lands.
11. The Permittee shall comply with the provisions of ORS 390.235 through 390.240, ORS 358.905 through 358.955 and OAR 736-051-0060 through 736-051-0090 as these statutes and rules affect the discovery, excavation, salvage, removal and disposition of archaeological resources and the permitting requirements for these activities as they affect archaeological sites on public and private land. If archeological objects are encountered during the project, all work must stop immediately, and work may not proceed until an archeological permit is issued under ORS 390.235

12. This approval does not affect any obligation the Permittee might have to other persons or local, state, or federal agencies.
13. If the Permittee fails to comply with the conditions provided herein and otherwise imposed by OPRD, OPRD shall exercise its authority under Oregon Revised Statutes 390.661 through 390.676; 390.990 through 390.995; and the provisions of OAR 736-020-0200 to cease any further activity by the Permittee on the ocean shore except as directed by OPRD. In such circumstances OPRD may assess a civil penalty according to the provisions of OAR 736-080-0005 through 736-080-0070.
14. The Permittee shall agree to save and hold harmless the State of Oregon, the Oregon Parks and Recreation Commission, and its members, and all officers, agents and employees of the Oregon Parks and Recreation Department, from any claim, suit or action whatsoever for damages to property, or injury or death to any person or persons due to negligence of permittee(s), their officers, agents or employees, and arising out of the performance of any work or project covered by the granting of a permit.
15. In issuing this permit, OPRD makes no representation regarding the quality or adequacy of the permitted revetment design, materials, construction, or maintenance, except to approve the project's design and materials, as set forth in the permit application, as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapter 390 and related regulations.

Trevor Taylor, Stewardship Program Manager
Oregon Parks and Recreation Department

Cc: Bryan Pohl, Director, Tillamook County Community Development Department
Meg Gardner, DLCD
Brad Johnson, U.S. Army Corps of Engineers

Appeal Process

Any person aggrieved or adversely affected by the grant of a permit or the conditions imposed on the permit may file a written request for a hearing with the Parks and Recreation Director. The request must be received within 30 days of the date of the permit. The hearing shall be conducted as a contested case in accordance with ORS 183.415 to 183.430, 183.440 to 183.460 and 183.470