



**OCEAN SHORE
ALTERATION PERMIT**

Application Approved with Conditions:



Application Denied:



Date: May 5, 2004

Applicant:

Ocean and Laurel Sand Management Association c/o
Bob Coussens

OPRD File Number: BA-582-04

County: Clatsop

Project Location: The ocean shore between Jefferson and Washington Streets in Cannon Beach.

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 proposed project involves the seaward transfer of accreted sand, under a proposed dune management plan. The plan, entitled "Presidential Streets Sand Management Plan", was prepared by Thomas S. Horning, a registered professional geologist. The plan calls for two phases of work to lower the excessive dune height between Jackson Street to the South and Washington Street to the North. Phase 1 involves work between Jefferson and Washington Street, a distance of approximately 500 feet. Phase 2 will involve work between Jackson Street and Jefferson Street. Only Phase 1 is addressed in this permit application.

The proposal calls for using bulldozers to lower the existing foredune down to the elevation of Ocean Avenue, leaving a dune crest west of the roadway at a height of between 2 and 4 feet above the road level. Excavated sand will be deposited onto the western dune slope and the upper sand beach, directly seaward of the graded area. Approximately 4,310 cubic yards of sand will be transferred, lowering the dune height by approximately 12 feet, even with the elevation of Ocean Road and the adjoining residential properties. Following the grading work, the open sand area within 100 feet of the Ocean Road right-of-way will be stabilized with vegetation.

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 your application.

Submitted plans: Attached (See Condition 2)

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 Sand Alteration

Denies your application

Conditions:

1. Prior to conducting work, the Permittees or subsequent land owners (collectively "Permittees") shall complete all of the required land use approvals as required by the City of Cannon Beach, and obtain certification from the City of Cannon Beach Planning Department that the project is consistent with the local comprehensive plan and land use ordinance.
2. Prior to conducting work, the contractor must obtain a permit for operating equipment on the ocean shore. Notification and permit application shall be made to the South Beach field office. Contact Steve Williams (541) 867-3340.
3. The proposed work and any subsequent maintenance activities shall be conducted in conformance with the Presidential Streets Sand Management Plan, Phase 1, and the plans submitted with the OPRD permit application.
4. (a) Except as provided in subsection (b) of this condition, prior to commencing work, the Permittees shall provide proof that an appellate judgment in the appeal of the Clatsop County Circuit Court CC 032118 ("JUDGMENT QUIETING TITLE IN PLAINTIFFS" in *Coussens et al. v. Stevens*) has issued and establish, to OPRD's satisfaction, that the area subject to this permit is either owned by the Permittees, or other individuals granting authorization for work described in the Plan as described in condition 3, above.
5. The Permittees may conduct work under this permit prior to the issuance of an appellate judgment in the appeal of the Clatsop County Circuit Court CC 032118 ("JUDGMENT QUIETING TITLE IN PLAINTIFFS" in *Coussens et al. v. Stevens*) upon the posting of a bond in an amount satisfactory to the Department. The bond shall remain in force until the Permittees provide proof that an appellate judgment in the appeal of the Clatsop County Circuit Court CC 032118 ("JUDGMENT QUIETING TITLE IN PLAINTIFFS" in *Coussens et al. v. Stevens*) has issued and that the title in plaintiffs therein in the area subject to this permit is affirmed. If an appellate judgment in the appeal of the Clatsop County Circuit Court CC 032118 ("JUDGMENT QUIETING TITLE IN PLAINTIFFS" in *Coussens et al. v. Stevens*) has issued and the title in an entity other than the plaintiffs therein in the area subject to this permit is determined, the Bond shall be released if the Permittees obtain an easement, license, or

other written authority from the adjudged fee owner of the area subject to this permit not owned by the Permittees. The Bond may be used for purposes of funding restoration of the dune in the event that title rests elsewhere than with plaintiffs and the adjudged title holder seeks restoration of the area subject to this permit to the condition of area prior to work conducted under this permit. Any restoration plan for work conducted pursuant to this condition in an area subject to the Department's jurisdiction under ORS 390.635 must be permitted by the Department.

6. Sand transferred onto the beach shall be free of debris and vegetation.
7. While use of heavy equipment is occurring, personnel shall be available to keep onlookers a safe distance away and to ensure that public safety is not compromised.
8. This permit is revocable by OPRD at any time pursuant to OAR 736-020-0032(2)(d). Otherwise, this permit shall remain valid as long as the Presidential Streets Management Plan remains in effect with the City of Cannon Beach. Individual permits for use of vehicles or equipment on the beach will be required for all future management activities within this management area.
9. Notwithstanding the revocation, expiration or any renewal of this permit or its earlier relinquishment, abandonment, or other termination, the condition provisions of this permit, to the extent applicable, shall continue in effect and shall be binding on the Permittees, successors, or assigns, until they have fully performed their respective obligations and liabilities accruing before or on account of the expiration, or prior termination of the permit.
10. The Permittees or subsequent owners shall be responsible for obtaining any required permit approvals from the U.S. Army Corps of Engineers, if applicable to this project.
11. This permit is revocable by OPRD at any time pursuant to OAR 736-020-0032(2)(d). Otherwise, this permit shall remain valid as long as the Presidential Streets Management Plan remains in effect with the City of Cannon Beach. Individual permits for use of vehicles or equipment on the beach will be required for all future management activities within this management area.
12. 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.
13. The Permittees or subsequent owners 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.
14. The Permittees 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. If the Permittees should fail 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 Permittees or subsequent owner(s) 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.

/s/ Mike Carrier

Michael Carrier
Director
Oregon Parks and Recreation Department

Cc: Rainmar Bartl, City of Cannon Beach
Paul Klarin, DLCD
Ron Marg, U.S. Army Corps of Engineers
Mark Smith, Nehalem Bay State Park

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