

City of Brookings

MEETING AGENDA

CITY COUNCIL/URBAN RENEWAL AGENCY

Monday, January 28, 2013, 7:00pm

City Hall Council Chambers, 898 Elk Drive, Brookings, OR 97415

Council will hold a **Joint Workshop at 6:30pm**, with the Curry County Board of Commissioners in City Hall Council Chambers.

A meeting of the **Urban Renewal Agency** will immediately follow the Common Council meeting.

CITY COUNCIL

A. Call to Order

B. Pledge of Allegiance

C. Roll Call

D. Ceremonies/Appointments/Announcements

1. Appointment of Carol Bayne to the Budget Committee. [pg. 5]

E. Staff Reports

1. Discussion and direction on City comment to proposed Department of State Lands rule concerning motorized vehicles on Chetco River.[City Manager, pg.8]
 - a. Draft letter [pg. 9]
 - b. Email from DSL [pg. 10]
 - c. Proposed rule [pg.12]
 - d. Statement of Need and Fiscal Impact [pg. 26]
 - e. October 30, 2012 Rulemaking Advisory Committee minutes [pg. 28]
 - f. October 30, 2012 Chetco Watershed Council rule request [pg. 32]
 - g. Letter from Chetco Watershed Council President Carl Page to Watershed Council members dated April 26, 2011 [pg. 36]
 - h. Emails from Cam Lynn [pg. 38]

F. Public Hearings/Ordinances/Resolutions/Final Orders

1. Public Hearing on file LDC-2-12, proposing existing airport as outright uses in Brookings Municipal Code (BMC) Chapter 17.40, Public Open Space (P/OS). [Planning, Advance Packet]
2. Ordinance amending Section 17.40.020, Permitted uses, of Chapter 17.40, Public Open Space (P/OS) District. [Planning, Advance Packet]
3. Resolution revising the appeal process for Public Art Committee decisions. [Planning, pg. 45]
 - a. Resolution 08-R-903 [pg. 46]
 - b. Resolution 08-R-905 [pg. 51]
 - c. Resolution 13-R-998 [pg. 54]
4. Resolutions setting System Replacement Fees and financing infrastructure related to November 19, 2012 storm. [Finance, pg. 57]

- a. Resolution 13-R-996 [pg. 58]
- b. Resolution 13-R-997 [pg. 59]

G. Oral Requests and Communications from the audience

- 1. Public Comments on non-agenda items – 5 minute limit per person.*

H. Staff Reports

- 1. Authorization to execute contract with GRI for geotechnical design and construction support for the Beach Lift Station Site Restoration project in an amount not to exceed \$42,250. [PWDS, pg. 62]
 - a. Fee proposal and photo [pg. 63]
- 2. Acceptance of City of Brookings Audit for fiscal year ending June 30, 2012. [Finance, pg. 70]
 - a. Audit report [Distributed separately]

I. Consent Calendar

- 1. Approve Council minutes for January 28, 2013 [pg. 71]
- 2. Authorize the City Manager to execute a one year contract with U.S. Geological Service to continue recording water levels for the Chetco River [pg. 77]
- 3. Receive monthly financial report for December, 2012 [pg. 80]

J. Remarks from Mayor and Councilors

K. Adjournment

URBAN RENEWAL AGENCY

A. Call to Order

B. Roll Call

C. Consent Calendar

- 1. Approve Agency minutes for November 13, 2012. [pg. 86]

D. Public Comments

E. Staff Reports

- 1. Acceptance of City's Urban Renewal Agency Audit for fiscal year ending June 30, 2012. [Finance, pg. 87]
 - a. Audit report [Separate attachment]

F. Agency Remarks

G. Adjournment

*Obtain Public Comment Forms and view the agenda and packet information on-line at www.brookings.or.us, at City Hall and at the local library. Return completed Public Comment Forms to the City Recorder before the start of meeting or during regular business hours.

All public meetings are held in accessible locations. Auxiliary aids will be provided upon request with advance notification. Please contact 469-1102 if you have any questions regarding this notice.

January 2013

January 2013							February 2013						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
6	7	1	2	3	4	5	3	4	5	6	7	1	2
13	14	8	9	10	11	12	10	11	12	13	14	8	9
20	21	15	16	17	18	19	17	18	19	20	21	15	16
27	28	22	23	24	25	26	24	25	26	27	28	22	23

	Monday	Tuesday	Wednesday	Thursday	Friday
Dec 31 - Jan 4	Dec 31	Jan 1, 13 New Years - Closed (closest workday to 1) 9:00am CC - Site Plan	2 12:00pm CC - Stout Park 7:00pm FH-PoliceResrvs	3	4
Jan 7 - 11	7 11:00am CC - VIPS 1:30pm CC - Staff 4:00pm CC - Council Wkshp 7:00pm FH-FireTrng	8 8:30am CC - Staff 9:00am CC - Site Plan 7:00pm CC - Planning Comm	9 10:00am FH-BRFD	10 9:00am CC-Crm Stoppers 1:00pm CC - Muni Court	11
Jan 14 - 18	14 7:00pm FH-FireTrng 7:00pm CC-Council	15 9:00am CC - Site Plan 1:00pm CC - Staff	16	17 11:00am CC- Public Art Comm 3:00pm CC - Staff	18
Jan 21 - 25	21 Martin Luther King Day - City Hall Closed 11:00am CC-VIPS 7:00pm FH-FireTrng	22 9:00am CC - Site Plan 4:00pm CC - Goals Workshop 6:00pm CC - Budget Comm	23	24 4:00pm CC - TPAC 7:00pm CC-Parks & Rec	25 10:30am CC - Staff
Jan 28 - Feb 1	28 6:00pm CC - County Commissioners 6:30pm CC - Jt City/County Workshop 7:00pm CC-Council 7:00pm FH-FireTrng	29 9:00am CC - Site Plan	30 8:00am CC - Staff	31	Feb 1

February 2013

February 2013						
Su	Mo	Tu	We	Th	Fr	Sa
3	4	5	6	7	1	2
10	11	12	13	14	8	9
17	18	19	20	21	15	16
24	25	26	27	28	22	23

March 2013						
Su	Mo	Tu	We	Th	Fr	Sa
3	4	5	6	7	1	2
10	11	12	13	14	8	9
17	18	19	20	21	15	16
24	25	26	27	28	22	23
31					29	30

	Monday	Tuesday	Wednesday	Thursday	Friday
	Jan 28	29	30	31	Feb 1
Jan 28 - Feb 1					
Feb 4 - 8	4	5	6	7	8
	11:00am CC - VIPS 4:00pm CC - Council Wkshp 7:00pm FH-FireTrng	9:00am CC - Site Plan 7:00pm CC-Planning Comm	12:00pm CC - Stout Park 7:00pm FH-PoliceResrvs	10:00am CC - Muni Court	
Feb 11 - 15	11	12	13	14	15
	7:00pm FH-FireTrng 7:00pm CC-Council	9:00am CC - Site Plan 3:00pm CC - Staff	10:00am FH-BRFD	9:00am CC-Crm Stoppers	
Feb 18 - 22	18	19	20	21	22
	Presidents Day - Closed 11:00am CC-VIPS 7:00pm FH-FireTrng	9:00am CC - Site Plan		11:00am CC- Public Art Comm	
Feb 25 - Mar 1	25	26	27	28	Mar 1
	7:00pm CC-Council 7:00pm FH-FireTrng	9:00am CC - Site Plan			



City of Brookings

898 Elk Drive, Brookings, OR 97415

Phone: (541) 469-2163 Fax: (541) 469-3650

www.brookings.or.us

APPLICATION TO SERVE ON A CITY OF BROOKINGS COMMISSION, COMMITTEE OR BOARD

PART I. Contact Information:

Name: CAROL BAYNE Date: 1/15/13
Physical Address: 1106 SANDY LANE, BROOKINGS, OR 97415
Mailing Address: POB 4029, Brookings, OR 97415
Email Address: pjb444@FRONTIER.COM Phone: 541-469-5059

PART II. Position Selection, Requirements and Restrictions: (Please answer all that apply)

1. Commission/Committee applying for:

	<u>Composition (i)</u>	<u>Term (ii)</u>
<input type="checkbox"/> Planning Commission/Commission for Citizen Involvement (iii)	5 Electors, 2 UGB	4 yrs
<input checked="" type="checkbox"/> Budget Committee	5 Electors	3 yrs
<input type="checkbox"/> Parks and Recreation Commission	4 Residents, 1 UGB	2 yrs
<input type="checkbox"/> Public Art Committee (iii)	3 Residents, 2 UGB	3 yrs
<input type="checkbox"/> Traffic Safety Committee	2 Residents	2 yrs
<input type="checkbox"/> Tourism Promotion Advisory Committee	TBD	TBD
<input type="checkbox"/> Other (please specify):		

2. **City residents:** How long have you lived in the City of Brookings? 8 (yrs/mths)

Are you a City elector (registered voter)? ☐ Yes ☒ No

3. **UGB residents:** How long have you lived in the UGB?: _____ (yrs/mths)

4. **What is your current occupation?** SEMI RETIRED

NOTES:

(i) *Membership requirements:*

- Resident and UGB status are determined by physical address.
- Residents must reside within the City limits.
- Electors are registered voters of the City of Brookings (verified by County Elections Officer)
- UGB members must reside within the Brookings Urban Growth Boundary or Area. (Contact the Planning Department at 541-469-1137 to determine if you are in the UGB).

(ii) *Term:* Appointments to fill mid-term vacancies will be for the remainder of that term.

(iii) *Other restrictions:*

- No more than two (2) Planning Commissioners may be principally involved, as individuals, members or partners, in the buying, selling or development of real estate for profit. No two (2) members shall be involved in the same kind of business or profession.
- Three (3) Public Art Committee members must have an art background

PART III. Background Information : *Attach additional pages if needed:*

1. List your **related** experience and/or background **to the position you are applying for:**

CHEROKEE FEDERAL CREDIT UNION - LOAN OFFICER
8 years .

2. List your **work history and educational background**, as well as any volunteer experience that is **not** related to the position for which you are applying:

3. Briefly describe your **interest in this position** and what you **hope to accomplish:**

PART IV. Volunteer Agreement : *Please read and check off the following before signing:*

- ☒ I acknowledge that I will not be under the direct supervision and control of the City in connection with the voluntary services for which I have applied.
- ☒ I acknowledge that I will receive no compensation or expense reimbursement from the City in connection with any volunteer services for which I have applied.
- ☒ I understand and agree that my volunteer service will be donated to the City at times other than my regular work hours.
- ☒ I understand that if the position I applied for requires me to be an elector of the City of Brookings, that the City has permission to verify my status as a registered voter.
- ☒ I agree to release the City from all matters relating to the voluntary service for which I have applied, including compliance, if any is required, with social security, withholdings, insurance and all other regulations and reportings governing such matters. I assume full responsibility for any injuries or damages suffered by or arising from the voluntary service described herein. (*Planning Commission applicants, see ** below*)
- ☒ I agree to release, indemnify and hold the City harmless from and against any and all actions, causes of action, claims, demands, liabilities, losses, damages or expenses, of whatsoever kind and nature, including attorney fees, which City may sustain or incur as a result of errors or omissions in the performance of the voluntary service set forth herein.
- ☒ By signing this application voluntarily and in the presence of the witness listed below, I, the Applicant, do hereby acknowledge that I have read and agree to the terms stated above and that I understand and acknowledge that this document will become public information and may be distributed to the public and news media as part of a City Council Agenda Packet.

CAROL BAYNE
Applicant (print name)

Carol Bayne
Applicant's Signature

1-15-13
Date

Ron Hedenskog
Witness (print name)

Ron Hedenskog
Witness's Signature

1-15-13
Date

****Planning Commissioners** holding office on April 1st of each year are required to file an Annual Statement of Economic Interest with the Oregon Government Ethics Commission (OGE). You may view a sample form at http://www.oregon.gov/OGEC/forms_publications.shtml. Official forms are provided by OGE.

Submit completed applications by mail or in person to the City Recorder, 898 Elk Drive, Brookings, OR 97415. Regular City business hours are 9:00am – 4:30pm, Monday–Friday.

Commission and Committee contact information:

Planning Commission: 541-469-1135
Parks and Recreation Commission: 541-469-1103
Traffic Safety Committee: 541-469-1103

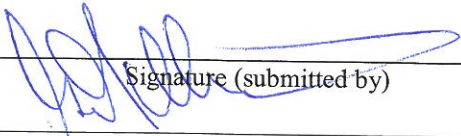
Public Art Committee: 541-469-1135
Budget Committee: 541-469-1123
Tourism Promotion Advisory Committee
541-469-1101

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: January 28, 2013

Originating Dept: City Council



Signature (submitted by)

City Manager Approval

Subject: City Comment on Proposed Department of State Lands Rule Concerning Motorized Vehicles in the Chetco River

Recommended Motion:

Discussion and possible direction to send a comment letter to the Department of State Lands concerning a proposed rule regarding motorized vehicles in the Chetco River.

Financial Impact: None

Background/Discussion:

The State of Oregon, Department of State Lands (DSL), is proposing a rule that would prohibit the use of motorized vehicles in the wetted channel of the Chetco River, subject to certain exemptions for emergency vehicles and vehicles operated by regulatory agencies.

DSL is seeking public comments on the proposed rule prior to submitting the proposed rule for adoption to the State Land Board. The deadline for written comments is January 31, 2013. At the City Council meeting of January 14, the City Council received a citizen request from Cam Lynn that the City Council oppose the proposed rule and it was the consensus of the City Council to place the matter on a future City Council agenda for possible action.

Attached are various items of correspondence related to this matter, and a draft letter to DSL containing alternative language.

Attachment(s):

- a. Draft letter.
- b. Email from DSL concerning comment period.
- c. Proposed Rule.
- d. Statement of Need and Fiscal Impact.
- e. Chetco River Rulemaking Advisory Committee Meeting Minutes October 30, 2012.
- f. Letter from the Chetco Watershed Council requesting rule October 16, 2011.
- g. Letter from Chetco Watershed Council President Carl Page to Watershed Council Members April 26, 2011.
- h. Correspondence from Cam Lynn.

Tiana Teeters, Rules Coordinator

Department of State Lands

775 Summer Street NE, Suite 100

Salem, OR 97301-1279

Dear Ms. Teeters,

The purpose of this letter is to provide the Department of State Lands with comments on behalf of the City of Brookings concerning a proposed rule limiting the use of motorized vehicles in the Chetco River owned by the State of Oregon.

The City Council acknowledges that the Chetco River is an important resource for fish propagation, recreation and generation of economic activity. Any rulemaking affecting the Chetco River must take into consideration these sometimes conflicting resources.

Alt 1: The Brookings City Council supports the proposed rule as a reasonable approach to protecting this important multi-use resource.

Alt 2: The Brookings City Council opposes the proposed rule as it is an attempt to address an environmental degradation issue that is unproven, and unduly restricts Brookings residents who have used the Chetco River as a recreational and economic resource for decades.

Alt 3: The Brookings City Council finds the proposed rule to be unacceptable and recommends further study of this matter before rulemaking action is taken. Issues that should be addressed in further study include:

1. A study based on science identifying the impacts on fish habitat of continued vehicles crossings of the river.
2. Possible seasonal closures of Salmon spawning areas of the river.
3. Possible prohibition of vehicle crossings when water levels are higher than the bottom vehicle tire rim.
4. Economic impact of the proposed rule.
5. Preparation of an environmental impact statement.

Thank you for the opportunity to comment on this important rulemaking activity.

Sincerely,

Ron Hedenskog

Mayor

Gary Milliman

From: TEETERS Tiana [tiana.teeters@state.or.us]
Sent: Friday, November 30, 2012 11:39 AM
Subject: Rulemaking Notices: Division 88 and Division 145

The Department of State Lands is proposing changes to the following divisions:

DIVISION 88 – Limiting Use of Motorized Vehicles in the Chetco River Owned by the State of Oregon

DIVISION 145 – Governing the Management of Remediation and Restoration Activities on State-Owned Land

To obtain a copy of these rules, please go to the following website www.oregonstatelands.us and click on the "Rulemaking Updates" link under the "Current Information" heading.

DIVISION 88 SUMMARY: This rulemaking will amend the Department's public recreational use rules relative to state-owned submerged and submersible land in the Chetco River. On October 20, 2011, the Department received a petition for rulemaking from the Chetco River Watershed Council, pursuant to ORS 183.390 and OAR 137-001-0070. The petition sought adoption of a rule limiting use of motorized vehicles in the wetted channel of the Chetco River, subject to certain exceptions. The petition asserted that use of motorized vehicles within the wetted river channel "poses a significant risk of harm and damage to the natural resource of the land and to the public." The Department recommended to the State Land Board that it grant the petition and authorize the Department to initiate rulemaking to impose additional restrictions on the public recreational use of state-owned land on the Chetco River as part of the Department's rules on "Public Recreational Use of State-Owned Property" found in Oregon Administrative Rules at OAR 141-088. The State Land Board approved this request at the December 13, 2011 meeting.

DIVISION 145 SUMMARY: On December 14, 2010 the State Land Board directed the Department of State Lands to initiate rulemaking to develop new rules governing the processes to be used by the Department to authorize environmental remediation and/or restoration activities undertaken by, or pursuant to an order issued by DEQ or the EPA within the Portland Harbor Superfund Site and other locations throughout Oregon. The proposed rules define the administrative process by which the Department will authorize remedial actions on state-owned submerged and/or submersible lands. The Department will authorize these uses by issuing access authorizations, easements, and leases. The authorization type can vary depending on the time requested, type of remediation, and applicant preference. The proposed rules also define the administrative process by which conservation easements for habitat restoration will be issued. The Department convened a rulemaking advisory committee (RAC) to assist in the drafting of this rule. The RAC had seven all day meetings spanning from December of 2011 to September of 2012. The RAC discussed remediation and restoration issues; and provided comment, edits and proposed language for this rulemaking effort. At the September 6, 2012 meeting, the RAC voted unanimously that the draft rules were ready to move to the public comment phase

HOW TO COMMENT:

You may comment on the proposed rules by sending written comments to:

Tiana Teeters, Rules Coordinator
Department of State Lands
775 Summer Street NE, Suite 100

Salem, Oregon 97301-1279

(IMPORTANT: Make sure to indicate which set of rules you are commenting on.)

Please send comments to the address above or email to:

Division 88 – ChetcoRiver.Rulemaking@dsl.state.or.us

Division 145 – Remediation.Rulemaking@dsl.state.or.us

COMMENT DEADLINE: Thursday, January 31, 2013 by 5:00 PM.

DIV 88 RULEMAKING HEARING: You are invited to attend the rulemaking hearing, which will take place:

DATE: Wednesday, December 19, 2012

TIME: 5:00 PM

LOCATION: City of Brookings City Hall, 898 Elk Drive, Brookings, Oregon 97415

DIV 145 RULEMAKING HEARINGS: You are invited to attend a rulemaking hearing, which will take place:

DATE: Tuesday, December 18, 2012

TIME: 5:00 PM

LOCATION: North Bend Library, 1800 Sherman Avenue, North Bend, Oregon 97459

DATE: Wednesday, January 9, 2013

TIME: 5:00 PM

LOCATION: Linnton Community Center, 10614 NW St Helens Road, Portland, Oregon 97231

DRAFT FOR PUBLIC REVIEW AND COMMENT

Incorporates changes based on a request made to the State Land Board by the Chetco River Watershed Council on October 20, 2011, an agency meeting held on July 17, 2012, and a rulemaking advisory committee meeting held on October 30, 2012.

NOTE: The proposed additions to the enacted rules are indicated **in bold underlined red type.**

DEPARTMENT OF STATE LANDS

DIVISION 88

RULES GOVERNING THE ESTABLISHMENT OF RESTRICTIONS ON THE PUBLIC RECREATIONAL USE OF STATE-OWNED LAND

141-088-0000 Purpose and Applicability

These rules:

- (1) Govern the establishment of restrictions on the public recreational use of state-owned Trust and Non-Trust Land managed by the Department of State Lands (Department).
- (2) Are in addition to those contained in OAR 141- 082 (Rules Governing the Management of, and Issuing of Leases, Licenses, Temporary Use Permits and Registrations for Structures on, and Uses of State-Owned Submerged and Submersible Land) which govern the imposition of restrictions on the use of, and closures of state-owned submerged and submersible land for activities subject to authorization by the Department.
- (3) Identify areas of state-owned land managed by the Department for which restrictions on public recreational use have been established by rule.
- (4) Do not govern the establishment of restrictions on, or closure to the public recreational use of state-owned land administered by the Department of State Lands within the South Slough National Estuarine Research Reserve.

141-088-0002 Definitions

- (1) **“Asset Management Plan”** is the plan adopted by the State Land Board that provides the policy direction and management principles to guide both the short and long-term management by the Department of the Common School Fund’s real estate assets.
- (2) **“Department”** means the Department of State Lands.
- (3) **“Director”** means the Director of the Department of State Lands or designee.

- (4) **"Emergency"** means a human created or natural event or circumstance that causes or threatens:
 - (a) Human life, health or safety;
 - (b) Loss of, or damage to property;
 - (c) Loss of, or damage to natural, historical, cultural or archaeological resources; or
 - (d) Damage to the environment.
- (5) **"Limited Duration"** means a public recreational use of state-owned land that does not exceed 30-calendar days in the same location.
- (6) **"Non-Trust Land"** is land owned or managed by the Department other than Trust Land. Examples of Non-Trust Land include state-owned Swamp Land, and state-owned submerged and submersible land (land below ordinary high water) under navigable and tidally influenced waterways.
- (7) **"Person"** includes individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies as well as any state or other governmental or political subdivision or agency, public corporation, public authority, or Indian Tribe.
- (8) **"Public Recreational Use"** or **"Public Recreational Uses"** are those recreational activities that a person may conduct on state-owned land managed by the Department without having to obtain a prior authorization from the Department as required by these or other administrative rules adopted by the State Land Board. Such uses include, but are not limited to, limited duration hunting, fishing, sightseeing, wildlife observation, hiking, boating, swimming, camping and picnicking.
- (9) **"Removal"** means a removal as defined in ORS 465.200.
- (10) **"Remedial Action"** means a remedial action as defined in ORS 465.200.
- (11) **"State Land"** or **"State-Owned Land"** is land owned or managed by the Department or its agents and includes Trust and Non-Trust Land.
- (12) **"Submerged Land"** means land lying below the line of ordinary low water of all title navigable and tidally influenced waters within the boundaries of the State of Oregon.
- (13) **"Submersible Land"** means land lying above the line of ordinary low water and below the line of ordinary high water of all title navigable and tidally influenced waters within the boundaries of the State of Oregon.
- (14) **"Trust Land"** or **"Constitutional Land"** is all land granted to the state for the use of schools upon its admission into the Union, or obtained by the state as the result of an exchange of Trust Land, or obtained in lieu of originally granted Trust Land, or purchased with trust funds, or obtained through foreclosure of loans using trust funds.

- (1) All Trust and Non-Trust Land under the jurisdiction of the State Land Board and the Department is open and available for public recreational use provided that such use:
 - (a) Is legal under local, state and federal law;
 - (b) Is allowed under the Department's Asset Management Plan;
 - (c) Does not, due to the nature or duration of the use, unnecessarily prevent other persons from using the same state-owned land; and
 - (d) Does not, as determined by the State Land Board or the Department:
 - (A) Substantially interfere with the use of land by persons holding a written authorization from the Department to use the subject site(s), parcel(s) or area(s);
 - (B) Pose a significant risk of harm or damage to the natural, cultural and archaeological resources of the land or to the public; or
 - (C) Substantially interfere with tribal treaty rights.
- (2) Any person may request that the Department impose restrictions on public recreational use of state-owned land, or close state-owned land managed by the Department to public recreational use. A request must be in writing and must clearly state the reasons such a restriction or closure is necessary.
- (3) The Department may also identify state-owned land on which it believes public recreational use should be restricted or that should be closed to public recreational use.
- (4) Restrictions or closures by the State Land Board or the Director will be:
 - (a) Based on a determination that the action is necessary to:
 - (A) Protect human life, health or safety;
 - (B) Prevent loss of, or damage to property;
 - (C) Prevent loss of, or damage to natural, historical or archaeological resources;
 - (D) Prevent damage to the environment;
 - (E) Facilitate or protect a removal or remedial action undertaken by or pursuant to an order issued by the Oregon Department of Environmental Quality (DEQ) or the United States Environmental Protection Agency (EPA);
 - (F) Fulfill an objective of an area management plan developed by the Department; or
 - (G) Meet other land management objectives or terms of any use authorization granted by the Department.
 - (b) As limited in area, duration and scope as necessary to address the identified need for the restriction or closure.
- (5) All restrictions or closures will be promulgated by the State Land Board except that the Director may impose a restriction or closure when the Director determines that:
 - (a) The restriction or closure is necessary to address an emergency; or

- (b) The restriction or closure is necessary to facilitate or protect a removal or remedial actions undertaken by or pursuant to an order issued by the Oregon Department of Environmental Quality (DEQ) or the United States Environmental Protection Agency (EPA).

141-088-0005 Restriction or Closure Request and Review Process

- (1) Upon receipt of a request to impose restrictions on, or close state-owned land to public recreational use, the Department will review the request to evaluate the need for the restriction(s) or closure.
- (2) As a part of its review, the Department may:
 - (a) Determine if feasible alternative approaches exist to address the problem(s) for which the restrictions or closure is requested; and
 - (b) Contact, persons or groups likely to be impacted by the proposed restrictions or closure including, but not limited to, law enforcement officials, users of the subject site, area or parcel, and adjacent landowners.
- (3) Following its review of the request, the Department will make a recommendation to the Director concerning whether to place the requested restrictions on the public recreational use of, or to close to such uses the state-owned land.
- (4) Upon receipt of the Department's recommendation, the Director will determine whether the restriction or closure must be promulgated by the State Land Board pursuant to OAR 141-088-0006, or may be imposed by the Director pursuant to either OAR 141-088-0007 or OAR 141-088-0008.

141-088-0006 Restrictions or Closures Adopted by the State Land Board

- (1) All restrictions or closures by the State Land Board will be promulgated as rules in accordance with ORS 183.310 to 183.410.
- (2) The State Land Board will adopt the proposed restriction or closure to public recreational use if the Land Board determines:
 - (a) That the restriction or closure is necessary to:
 - (A) Protect human life, health or safety;
 - (B) Prevent loss of, or damage to property;
 - (C) Protect natural, historical, cultural or archaeological resources;
 - (D) Prevent damage to the environment;
 - (E) Facilitate or protect a removal or remedial action undertaken by or pursuant to an order issued by the Oregon Department of Environmental Quality (DEQ) or the United States Environmental Protection Agency (EPA) in pursuit of identifying and remediating contaminated soil or sediments on state-owned land;

- (F) Fulfill an objective of an area management plan developed by the Department; or
 - (G) Meet other land management objectives or terms of a use authorization; and
- (b) That there is no feasible alternative to accomplish that objective without imposition of a restriction or closure.
- (3) Restrictions or closures adopted by the State Land Board will be as limited in area, duration and scope as necessary to address the identified need for the restriction or closure.
- (4) If the State Land Board adopts a restriction or closure by rule the Department will:
 - (a) Notify affected local, state and federal government agencies and tribal governments, as well as other interested persons or groups that might be affected by the imposition of restrictions or a closure, or that have indicated that they want to be notified of such actions; and
 - (b) Post a notice of such proposed public use restrictions or closure at least four weeks before the time that the restrictions or closure is to take effect:
 - (A) One time in the Public Notices Section of The Oregonian and, if the Director deems appropriate, in another newspaper serving the general area in which the proposed restriction or closure is to occur; and
 - (B) On the Department's website upon imposition of the restrictions or closure at www.oregonstatelands.us

141-088-0007 Restrictions or Closures Imposed by the Director to Address an Emergency

- (1) The Director may impose a restriction or closure in the event s/he determines that the restriction or closure is necessary to address an emergency.
- (2) Restrictions or closures imposed by the Director to address an emergency will be as limited in area, duration and scope as necessary to address the identified need for the restriction or closure.
- (3) If the Director imposes a restriction or closure, the Department will:
 - (a) Notify affected local, state and federal government agencies and tribal governments, as well as other interested persons or groups that the Department believes might be affected by the imposition of restrictions or a closure, or that have indicated that they want to be notified of such actions; and
 - (b) Post a notice of such proposed public use restrictions or closure:
 - (A) One time in the Public Notices Section of The Oregonian and, if the Director deems appropriate, in another newspaper serving the general area of the subject restriction or closure

within two weeks after the restrictions or closure take effect;
and

- (B) On the Department's website upon imposition of the restrictions or closure at www.oregonstatelands.us

141-088-0008 Restrictions or Closures Imposed by the Director to Facilitate or Protect Removal or Remedial Actions

- (1) The Director may impose restrictions on, or close state-owned land if the Director determines that the restriction or closure is necessary to facilitate or protect any removal or remedial action undertaken by or pursuant to an order issued by DEQ or EPA.
- (2) Restrictions or closures imposed by the Director will be as limited in area, duration and scope as necessary to address the identified need for the restriction or closure.
- (3) Before imposing a restriction or closure, the Department will provide a 30-calendar-day public comment period on the proposed restriction or closure. An affected party may request a public meeting with agency staff to be held during this 30-day period to discuss the proposed action.
- (4) Notice of this public comment period and the opportunity to request a public meeting with agency staff will be:
 - (a) Sent to affected local, state and federal government agencies and tribal governments, as well as other interested persons that have indicated that they want to be notified of such actions; and
 - (b) Posted:
 - (A) One time in the Public Notices Section of The Oregonian and, if the Director deems appropriate, in another newspaper serving the general area one week before the start of the public comment period; and
 - (B) On the Department's website upon imposition of the restrictions or closure at www.oregonstatelands.us
- (5) A restriction or closure imposed by the Director will not take effect until a date to be determined by the Director which must be at least four weeks following posting of a notice of the restriction or closure.
- (6) If the Director imposes a restriction or closure the Department will:
 - (a) Notify affected local, state and federal government agencies and tribal governments, as well as other interested persons that have indicated that they want to be notified of such actions; and
 - (b) Post a notice of such proposed public use restrictions or closure at least four weeks before the time that the restriction or closure is to take effect:
 - (A) One time in the Public Notices Section of The Oregonian and, if the Director deems appropriate, in another newspaper serving the general area before the start of the restrictions or closure is to take effect; and
 - (B) On the Department's website at www.oregonstatelands.us

141-088-0009 Unauthorized Uses and Penalties

- (1) The unauthorized use of state-owned land managed by the Department constitutes a trespass.
- (2) In addition to any other penalties provided or permitted by law, the Department may pursue whatever remedies are available under law to ensure that any use that is in violation with these rules is either brought into compliance with the requirements of these rules or other applicable law, or ceased or removed.
- (3) In addition to any other penalty or sanction provided by law, the Director may assess a civil penalty of not more than \$1,000 per day of violation for violations of any provision of these rules or ORS 274 that occurs on state-owned submerged or submersible lands pursuant to ORS 274.992.
- (4) The Director will give written notice of a civil penalty incurred under OAR 141-088-0009(3) by registered or certified mail to the person incurring the penalty. The notice will include, but not be limited to the following:
 - (a) The particular section of the statute or this rule involved;
 - (b) A short and clear statement of the matter asserted or charged;
 - (c) A statement of the party's right to request a hearing within 20 calendar days of the notice;
 - (d) The time allowed to correct a violation; and
 - (e) A statement of the amount of civil penalty which may be assessed and terms and conditions of payment if the violation is not corrected within the time period stated.
- (5) The person incurring the penalty may request a hearing within 20 calendar days of the date of service of the notice provided in OAR 141-122-0130(3). Such request must be in writing. If no written request for a hearing is made within the time allowed, or if the party requesting a hearing fails to appear, the Director may make a final order imposing the penalty.
- (6) In imposing a penalty under OAR 141-088-0009 of these rules, the Director will consider the following factors as specified in ORS 274.994:
 - (a) The past history of the person incurring a penalty regarding other trespasses on state-owned land managed by the Department;
 - (b) Any prior violations of statutes, rules, orders and authorizations pertaining to submerged and submersible land;
 - (c) The impact of the violation on public trust uses of commerce, navigation, fishing and recreation; and
 - (d) Any other factors determined by the Director to be relevant and consistent with the policy of these rules.
- (7) Pursuant to ORS 183.090(2), a civil penalty imposed under OAR 141-088-0009 will become due and payable 10 calendar days after the order imposing the civil penalty becomes final by operation of law or on appeal.
- (8) If a civil penalty is not paid as required by OAR 141-088-0009, interest will accrue at the maximum rate allowed by law from the date first due.

141-088-0010 Restrictions for the State-Owned Property at Dibblee Point (Columbia River)

All state-owned land that is under the jurisdiction of the Department in the area known as Dibblee Point or Slaughters Bar, between Columbia River Mile 64.0 and Columbia River Mile 66.0, lying between the Burlington Northern Railroad and the left bank of the Columbia River, west of the Longview Rainier Bridge, in Sections 1 and 12, Township 7 North, Range 3 West, and Sections 7 and 8, Township 7 North, Range 2 West, Willamette Meridian, in Columbia County, Oregon, is closed to all uses between 10 p.m. and 5 a.m.

141-088-0020 Restrictions for the State-Owned Banks of the McKenzie River Bar

All state-owned land that is under the jurisdiction of the Department between the line of ordinary high water and line of ordinary low water along the north bank of the McKenzie River across from Armitage State Park, between River Mile 6.5 and River Mile 7.2, located in Sections 9 and 10, Township 17 South, Range 3 West, Willamette Meridian, in Lane County, Oregon, is closed to overnight camping and motor vehicles, except watercraft, between 10 p.m. and 5 a.m.

141-088-0035 Restrictions for the State-Owned Banks of the Sandy River

All state-owned land that is under the jurisdiction of the Department that is between the line of ordinary high water and the line of ordinary low water and on river islands on the Sandy River from River Mile 0.0 to 37.5 is closed to:

- (1) All uses between 10 p.m. and 5 a.m. throughout the year, and
- (2) Open fires at any time beginning May 1 and ending November 1 of every year.

141-088-0040 Restrictions for the State-Owned Banks of the Columbia River in the Vicinity of Dodson and Warrendale

All state-owned land that is under the jurisdiction of the Department in the vicinity of Dodson to Warrendale that is between the line of ordinary high water and the line of ordinary low water on the Columbia River from River Mile 139.5 to 142.5 is closed to:

- (1) All uses between 10 p.m. and 5 a.m. throughout the year, and
- (2) Open fires at any time beginning May 1 and ending November 1 of every year.

141-088-0050 Restrictions for the State-Owned Banks of the Chetco River

All state-owned land that is under the jurisdiction of the Department that is between the line of ordinary high water and the line of ordinary low water on the Chetco River from the Highway 101 Bridge to River Mile 11 (about one mile upstream from the mouth of Elk Creek) is closed to:

- (1) All uses between 10 p.m. and 5 a.m. throughout the year, and
- (2) Open fires at any time beginning May 1 and ending November 1 of every year, unless a longer period is ordered by the Coos Forest Protective Association.

141-088-0055 Restrictions on Use of Motorized Vehicles in the State-Owned Bed and Banks of the Chetco River

- (1) All state-owned land that is under the jurisdiction of the Department that is below the line of ordinary high water on the Chetco River from the Highway 101 Bridge to River Mile 11 (about one mile upstream from the mouth of Elk Creek) is closed to any and all use by motor vehicles within the wetted channel of the main stem of the river. Excepted from the closure are Government-owned vehicles on official business, motor or non-motorized boats, vehicles used in the launching or the retrieving of boats, vehicles operating under an authorization issued by the Department, public and private utility vehicles performing company business, vehicles involved in rescue or emergency activities, and vehicles engaged in repair of fences and placement of bank protection material.**
- (2) For the purposes of this rule, "wetted channel of the main stem" means state-owned submerged and/or submersible land of the primary segment of the river that is inundated by the waterway at the time of use.**

141-088-0060 Restrictions for the State-Owned Banks of the Willamette River in the Vicinity of Wheatland Bar Island and Willamette Mission State Park and Adjacent Upland

All state-owned land that is under the jurisdiction of the Department that is between the line of ordinary high water and the line of ordinary low water on the Willamette River, and all state-owned upland that is managed by the Department that is also in the vicinity of, or that comprises Wheatland Island or Willamette Mission State Park is closed to:

- (1) All uses between 10 PM and 5 AM throughout the year,
- (2) Open fires at any time beginning May 1 and ending November 1 of every year, and

- (3) All-terrain vehicles or other motorized vehicle uses except for those involved in the loading or unloading of recreational watercraft and parking during allowable use periods (i.e, 5 A.M to 10 P.M.).

141-088-0070 Restrictions for the State-Owned Bed and Banks of the Willamette River in the Vicinity of the Former McCormick-Baxter Plant

All state-owned land that is under the jurisdiction of the Department that is on the north side of the Willamette River at about River Mile 7 and fronting and abutting the site of the former McCormick-Baxter Plant, the Burlington Northern Bridge, and Willamette Cove as described in easement EA-31530 is temporarily closed to all public uses during the construction period while a sand cap is being placed over contaminated sediments.

141-088-0080 Restrictions for the State-Owned Banks of the Columbia River in the Vicinity of the Gary Island

All state-owned land that is under the jurisdiction of the Department that is between the line of ordinary high water and the line of ordinary low water on the south bank of the Columbia River in the vicinity of Gary Island between River Mile 123.5 and 124.5 is closed to any use without prior written authorization from the Department.

141-088-0090 Closure of Sand Lake Estuary

- (1) All submerged and submersible land under the jurisdiction of the Department below Head of Tide within the Sand Lake estuary is closed to any and all use by motor vehicles. Excepted from the estuary closure are Government-owned vehicles on official business, motor or non-motorized boats, vehicles used in the launching of boats at designated launching sites, public and private utility vehicles performing company business, vehicles involved in rescue or emergency activities, and vehicles engaged in repair of fences and placement of bank protection material.
- (2) Head of Tide means the inland-most extent of tidal influence as measured by an increase in water surface level at Mean High Tide (Mean Lower Low Water Datum).
- (3) The elevation of Mean High Tide corresponds to a tide stage of 7.5 feet (Mean Lower Low Water Datum). The Head of Tide in the Sand Lake estuary extends to the upper limit of the lake. (Sections 19, 20, 29, 30, 31 and 32 of Township 3 South, Range 10 West, Willamette Meridian.)

141-088-0100 Closure of Siltcoos River Estuary

- (1) All submerged and submersible land under the jurisdiction of the Department below Head of Tide within the Siltcoos River estuary is closed

to any and all use by motor vehicles. Excepted from the estuary closure are Government-owned vehicles on official business, motor or non-motorized boats, vehicles used in the launching of boats at designated launching sites, public and private utility vehicles performing company business, vehicles involved in rescue or emergency activities, and vehicles engaged in repair of fences and placement of bank protection material.

- (2) Head of Tide means the inland-most extent of tidal influence as measured by an increase in water surface level at Mean High Tide (Mean Lower Low Water Datum).
- (3) The elevation of Mean High Tide corresponds to a tide state of about 6.5 feet (Mean Lower Low Water Datum). The location of Head of Tide in the Siltcoos River estuary is approximately River Mile 3, at the Siltcoos Lake Outlet (Sections 32, 33, and 34 of Township 19 South, Range 12 West, Willamette Meridian).

141-088-0110 Closure of Tenmile Creek Estuary

- (1) All submerged and submersible land under the jurisdiction of the Department below Head of Tide within the Tenmile Creek estuary is closed to any and all use by motor vehicles. Excepted from the estuary closure are Government-owned vehicles on official business, motor or non-motorized boats, vehicles used in the launching of boats at designated launching sites, public and private utility vehicles performing company business, vehicles involved in rescue or emergency activities, and vehicles engaged in repair of fences and placement of bank protection material.
- (2) Head of Tide means the inland-most extent of tidal influence as measured by an increase in water surface level at Mean High Tide (Mean Lower Low Water Datum).
- (3) The elevation of Mean High Tide corresponds to a tide stage of about 6.5 feet (Mean Lower Low Water Datum). The location of Head of Tide in the Tenmile Creek estuary is approximately River mile 1.1, at the Tenmile Lake Outlet (Sections 22, 23, and 14 of Township 23 South, Range 13 West, Willamette Meridian).

141-088-0120 Closure of Tahkenitch Creek Estuary

- (1) All submerged and submersible land under the jurisdiction of the Department below Head of Tide within the Tahkenitch Creek estuary is closed to any and all use by motor vehicles. Excepted from the estuary closure are Government-owned vehicles on official business, motor or non-motorized boats, vehicles used in the launching of boats at designated launching sites, public and private utility vehicles performing company business, vehicles involved in rescue or emergency activities

and vehicles engaged in repair of fences and placement of bank protection material.

- (2) Head of Tide means the inland-most extent of tidal influence as measured by an increase in water surface level at Mean High Tide (Mean Lower Low Water Datum).
- (3) The elevation of Mean High Tide corresponds to a tide stage of about 6.5 feet (Mean Lower Low Water Datum). The location of Head of Tide in the Tahkenitch Creek estuary is approximately River Mile 1.2 at the Tahkenitch Creek Outlet (Sections 19 and 20, Township 20 South, Range 12 West, Willamette Meridian).

141-088-0130 Closure of Berry Creek Estuary

- (1) All submerged and submersible land under the jurisdiction of the Department below Head of Tide within the Berry Creek estuary is closed to any and all use by motor vehicles. Excepted from the estuary closure are government-owned vehicles on official business, motor or non-motorized boats, vehicles used in the launching of boats at designated launching sites, public and private utility vehicles performing company business, vehicles involved in rescue or emergency activities, and vehicles engaged in repair of fences and placement of bank protection material.
- (2) Head of Tide means the inland-most extent of tidal influence as measured by an increase in water surface level at Mean High Tide (Mean Lower Low Water Datum).
- (3) The elevation of the Mean High Tide corresponds to a tide stage of about 6.3 feet (Mean Lower Low Water Datum). The location of Head of Tide on Berry Creek is approximately the same as the line of Mean High Tide on the beach.

141-088-0140 Closure of Sutton Creek Estuary

- (1) All submerged and submersible land under the jurisdiction of the Department below Head of Tide within the Sutton Creek estuary is closed to any and all use by motor vehicles. Excepted from the estuary closure are government-owned vehicles on official business, motor or non-motorized boats, vehicles used in the launching of boats at designated launching sites, public and private utility vehicles performing company business, vehicles involved in rescue or emergency activities, and vehicles engaged in repair of fences and placement of bank protection material.
- (2) Head of Tide means the inland-most extent of tidal influence as measured by an increase in water surface level at Mean High Tide (Mean Lower Low Water Datum).
- (3) The elevation of Mean High Tide corresponds to a tide stage of about 6.5 feet, (Mean Lower Low Water Datum). The location of Head of Tide on

Sutton Creek is approximately River mile 0.4 (Section 28, Township 17 South, Range 12 West, Willamette Meridian).

141-088-0150 Closure of Twomile Creek Estuary

- (1) All submerged and submersible land under the jurisdiction of the Department below Head of Tide within the Twomile Creek estuary is closed to any and all use by motor vehicles. Excepted from the estuary closure are government-owned vehicles on official business, motor or non-motorized boats, vehicles used in the launching of boats at designated launching sites, public and private utility vehicles performing company business, vehicles involved in rescue or emergency activities, and vehicles engaged in repair of fences and placement of bank protection material.
- (2) Head of Tide means the inland-most extent of tidal influence as measured by an increase in water surface level at Mean High Tide (Mean Lower Low Water Datum).
- (3) The elevation of Mean High Tide corresponds to a tide stage of about 6.3 feet, (Mean Lower Low Water Datum). The location of Head of Tide on Twomile Creek is approximately River Mile 0.6 (Section 13, Township 29 South, Range 14 West, Willamette Meridian).

141-088-0160 Closure of New River, Floras Creek and Fourmile Creek

- (1) All submerged and submersible land under the jurisdiction of the Department below Head of Tide within New River and its tributaries, Fourmile Creek and Floras Creek, is closed to any and all use by motor vehicles. Excepted from the closure are government-owned vehicles on official business, motor or non-motorized boats, vehicles used in the launching of boats at designated launching sites, public and private utility vehicles performing company business, vehicles involved in rescue or emergency activities, and vehicles engaged in repair of fences and placement of bank protection material.
- (2) Head of Tide means the inland-most extent of tidal influence as measured by an increase in water surface level at Mean High Tide (Mean Lower Low Water Datum).
 - (a) The elevation of Mean High Tide corresponds to a tide stage of about 6.3 feet (Mean Lower Low Water Datum).
 - (b) The Head of Tide in New River is approximately River Mile 3.1 (Section 15, Township 30 South, Range 15 West, Willamette Meridian).
 - (c) The location of Head of Tide in Fourmile Creek is approximately River Mile 0.7 (Section 2, Township 30 South, Range 15 West, Willamette Meridian).

- (d) The location of Head of Tide in Floras Creek is approximately River Mile 0.2 (Section 5, Township 31 South, Range 15 West, Willamette Meridian).

141-088-0170 Closure of Euchre Creek Estuary

- (1) All submerged and submersible land under the jurisdiction of the Department below Head of Tide within the Euchre Creek estuary is closed to any and all use by motor vehicles. Excepted from the closure are government-owned vehicles on official business, motor or non-motorized boats, vehicles used in the launching of boats at designated launching sites, public and private utility vehicles performing company business, vehicles involved in rescue or emergency activities, and vehicles engaged in repair of fences and placement of bank protection material.
- (2) Head of Tide means the inland-most extent of tidal influence as measured by an increase in water surface level at Mean High Tide (Mean Lower Low Water Datum).
- (3) The elevation of the Mean High Tide corresponds to a tide state of about 6.6 feet, (Mean Lower Low Water Datum). The location of Head of Tide of Euchre Creek is approximately the same as the line of Mean High Tide on the beach.

141-088-0180 Closure of Pistol River Estuary

- (1) All submerged and submersible land under the jurisdiction of the Department below Head of Tide within the Pistol River estuary is closed to any and all use by motor vehicles. Excepted from the closure are government-owned vehicles on official business, motor or non-motorized boats, vehicles used in the launching of boats at designated launching sites, public and private utility vehicles performing company business, vehicles involved in rescue or emergency activities, and vehicles engaged in repair of fences and placement of bank protection material.
- (2) Head of Tide means the inland-most extent of tidal influence as measured by an increase in water surface level at Mean High Tide (Mean Lower Low Water Datum).
- (3) The elevation of Mean High Tide corresponds to a tide stage of about 6.3 feet, (Mean Lower Low Water Datum). The location of Head of Tide on Pistol River is approximately River Mile 1.4 (Section 20, Township 38 South, Range 14 West, Willamette Meridian).

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking
accompanies this form.

Department of State Lands Land Management Division

141

Agency and Division

Administrative Rules Chapter Number

Limiting Use of Motorized Vehicles in the Chetco River Owned by the State of Oregon.
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of
the agency's intended action.)

In the Matter of: Adopting a new administrative rule limiting public use on the Chetco
River.

Statutory Authority: ORS 183 - regarding administrative procedures and rules of state
agencies; ORS 273 - regarding the creation and general powers of the Land Board;
ORS 274 - regarding submerged and submersible land.

Other Authority: Oregon Constitution, Article VIII, Section 5

Stats. Implemented: ORS 273 & 274

Need for the Rule(s): This rulemaking will amend the Department's public recreational
use rules relative to state-owned submerged and submersible land in the Chetco River.
On October 20, 2011, the Department received a petition for rulemaking from the Chetco
River Watershed Council, pursuant to ORS 183.390 and OAR 137-001-0070. The
petition sought adoption of a rule limiting use of motorized vehicles in the wetted channel
of the Chetco River, subject to certain exceptions. The petition asserted that use of
motorized vehicles within the wetted river channel "poses a significant risk of harm and
damage to the natural resource of the land and to the public." The Department
recommended to the State Land Board that it grant the petition and authorize the
Department to initiate rulemaking to impose additional restrictions on the public
recreational use of state-owned land on the Chetco River as part of the Department's
rules on "Public Recreational Use of State-Owned Property" found in Oregon
Administrative Rules at OAR 141-088. The State Land Board approved this request at
the December 13, 2011 meeting.

Documents Relied Upon, and where they are available: ORS 273 & 274 (available at
the Secretary of State website). State Land Board Agenda Item 4, December 13, 2011
meeting, and OAR 141-088 (available at the Department of State Lands website).

Fiscal and Economic Impact: The Department does not anticipate a fiscal and
economic impact. The proposed rule language takes into consideration, and makes
exceptions for "Government-owned vehicles on official business, motor or non-motorized
boats, vehicles used in the launching or the retrieving of boats, vehicles operating under
an authorization issued by the Department, public and private utility vehicles performing
company business, vehicles involved in rescue or emergency activities, and vehicles
engaged in repair of fences and placement of bank protection material."

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): State and local law enforcement may be impacted by the proposed rule. The restriction is another item that local law enforcement must monitor for. The Department has met with state and local law enforcement, and they are in support of the proposed rule.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: No impact on small business is anticipated.

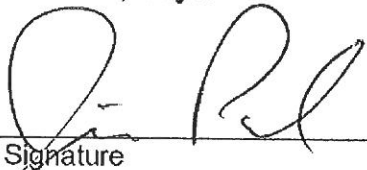
b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: No additional reporting, recordkeeping or other administrative activities are anticipated to be required by the proposed rule if adopted.

c. Equipment, supplies, labor and increased administration required for compliance: The Department will be required to provide signage. No other additional equipment, supplies, labor or administration are anticipated to be required by the proposed rule if adopted.

How were small businesses involved in the development of this rule? A Rule Advisory Committee was formed, and included a member representing small business.

Administrative Rule Advisory Committee consulted?: Yes, a Rule Advisory Committee was formed by the Department in the development of the proposed rule.

If not, why?:



Jim Paul, Assistant Director

Signature

Printed name

11/15/12

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE,
Salem, Oregon 97310. ARC 925-2007



**Chetco River
Rulemaking Advisory Committee Meeting
October 30, 2012
Brookings, Oregon**

These notes are not a transcript of the meeting. The sound files from this meeting can be found at: [http://www.oregon.gov/dsl/Pages/rules_activity.aspx#Land Management Division](http://www.oregon.gov/dsl/Pages/rules_activity.aspx#Land_Management_Division)

RAC Members Present:

Robert Elayer, Tidewater (authorization holder)
Harry Hoogesteger, South Coast Watershed Coordinator
Todd Confer for Steve Mazur, ODFW
OSP Trooper Dan Stinnett,
Val Early, Small Business Owner
Mayor Ron Hedenskog, City of Brookings
Dr. Washbauer, Petitioner-Chetco River Watershed Council
Ted Fitzgerald, Absent

Also present:

Tony Baron, City of Brookings
Several members of the public

DSL: Chris Castelli, Jim Grimes, Nancy Pustis

Meeting called to order at 1:10 PM

Chris – Started off with an overview of why we were there, the agency received a petition to close the “wetted perimeter” of the Chetco River to motorized use. Reviewed the agenda, read petition language as well as the proposed language stated in the Land Board Meeting Agenda Item, reviewed the ground rules for the meeting, and notes from the meeting held in July.

Robert – Concerned about them being able to continue gravel extraction at the 2nd Bridge. As leaseholder, they need to cross the wetted channel. Bob wants assurance that authorization holders on the river won’t be restricted.

DSL: Responded that the current language provides an exception for authorization holders.

Val – Need additional enforcement personnel for over site of the river. There is a lack of law enforcement resources now. Law enforcement can’t keep up with the issues that are currently occurring along the river now. How are they going to be dealt with in the future?

Trooper Stinnett – Supports the proposed language. Loeb State Park is the worst area for vehicles driving across the Chetco to access the opposite side of the river. He would like to see additional

signage with access times and access points clearly denoted so it is clearly understood by the general public.

DSL: Agency is willing to provide signage.

Val – With the language included that excludes “unnamed tributary”, what about the other access points to the river? How is the public going to understand where they are able to access the river? The current language needs clarification.

Mayor Hedenskog – Suggested clarifying the language being used to identify the “wetted tributary” because it will be difficult to define. He suggested “wetted thread” or “wetted channel” instead. He also suggested that the “pond” at the base of the boat ramp was not a tributary.

There was then some discussion as to the Chetco River changing its course over a period of time. It was mentioned sometimes the bar is isolated by the River running next to the boat ramp. Would the public be able to access the bar in that situation?

Mayor Hedenskog – Stated the river is always on the outside of the bar and that the “pond” is a backwater channel.

Robert – He agreed that the tributary is more of a backwater flow than “pond”.

Chris then again read the petition language and the proposed Land Board wording.

Dr. Washbauer – Stated the intent of the petition language is to ensure that the River is clear and clean, safe for fishing.

Val – Suggested using a seasonal time limitation.

Harry – How about June through October to accommodate fishing season?

Trooper Stinnett - A low estimate of the use is roughly 20-30 crossings per day in the months of July through September.

Val – The river is closed to fishing from April 1 -Memorial Day weekend. Prior to that (end of October – March 31st) is the primary fishing time and some of the highest usage of the gravel bars outside the summer camping season. Additional recreational usage is throughout the year with small businesses providing a variety of services that utilize the gravel bars.

Tony – Will ATV quads be included in the restriction? Is concerned about the ability for law enforcement patrols, city, county, or state? The City supports bathrooms being placed on City property at the entrance.

Mayor Hedenskog – Made a recommendation to keep the crossing restriction to the main Chetco River, not the backwater channel or “pond” area and add seasonal closures.

Dr. Washbauer – Petitioner is agreeable to the proposal.

Trooper Stinnett – Is ok with the proposal. It is not acceptable for anyone to be crossing the River in a motor vehicle at any time.

Todd – Agrees with Trooper Stinnett.

PUBLIC COMMENTS:

Yvonne Maitland (Chetco River Watershed Council):

- (1) Driving in the river does not benefit the people of Oregon.
- (2) It is dangerous and destructive.
- (3) Heavy equipment and vehicle use throughout the shallow areas cause the YOY - Young Of the Year to enter pore spaces in the streambed at riffles, take cover within the gravel and be crushed.

NOAA Fisheries biologists indicate that even wading fishermen can crush juvenile salmonids hiding within gravel substrate.

[*Sediment Removal from Active Stream Channels in Oregon, 2006*]

- (4) There is no public benefit to driving in the river.
- (5) The Chetco is designated as a Wild and Scenic River, and Essential Fish Habitat, a DSL designation that should protect the river from vehicle crossing.
- (6) The City of Brookings and Harbor have water intakes in the Chetco. Harbor does not have a Treatment Plant.

Catherine Wiley (Brookings): Requested that Val's comments regarding "exceptions" be clarified more.

Bob Piper (Adjacent Landowner): Disappointed that no landowners were represented on the RAC. He drives down on the bar and across the River to pick up garbage that is left by the recreational users. He wants to be allowed to continue. Who will be pick the trash up? Asked if the drivers of the vehicles in the photos were cited? If not, why not? All vehicles leak a certain extent of oil, is the leakage in the River excessive? It's safer for the kids to be driving across the River than on the road with their vehicles. Those outside the state of Oregon shouldn't be allowed to govern the process. Crossing the River with vehicles should be allowed.

Carl Page (Chetco River Watershed Council): Using one of the photos, he pointed to the vehicles crossing the River. Stated that too much oil leakage occurred with this type of use and it shouldn't be allowed. It damages sensitive habitats and the River itself. It's too bad the state doesn't own Emily Creek. That area is bad too. Need to enforce the laws. All agencies with responsibility of the River need to enforce their laws.

BREAK

Reconvened – Chris reviewed the conversation and the high points of the discussion prior to the break.

Mayor Hedenskog – There are a variety of ways that pollutants get into the environment. Using one of the photos, he talked about each vehicle and the potential pollutants that it was discharging. Made a reference that the pollutants draining off the highways into the River were possibly at higher levels than what was coming off these vehicles.

Chris – Asked if everyone was ready to agree on the rule language so DSL could move the process forward? The next step would be to propose the rule language to the general public for comment.

Todd – Proposed that the wording be changed from using the reference of “wetted channel” to “main threaded channel” or “primary wetted channel”. Which excludes all the smaller tributaries flowing into the river including the “pond” at the base of the boat ramp. He also did mention that steelhead have been found in the “pond”. He recommended staying with the “main thread of the channel”.

Chris asked if everyone was ready to vote on the proposed wording. Everyone agreed with using “main thread of the channel”.

Val – Proposed changing the Fiscal Impact Statement to include DSL providing signage.

DSL agreed to provide signage.

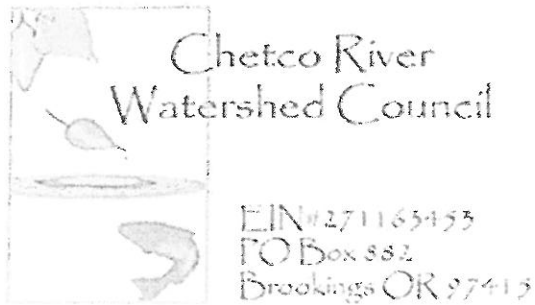
Val – also suggested a 60 days vs. 30 day timeframe be used for the Public Comment period to allow for an adequate response. All members of the RAC were agreeable with this.

DSL agreed to extend the Public Comment period to 60 days, January 31, 2013.

Meeting was adjourned at 2:30 PM

NOTE:

DSL distributed draft notes from July 17, 2012 interagency meeting. These notes included incorrect statements and numbers. These draft notes have been retracted and corrected, with DSL’s apologies. DSL provided the final meeting notes to the RAC via e-mail on November 1, 2012. The final meeting notes have corrected language and creel numbers based on review from meeting attendees.



OCT 20 2011

"Stewardship and Advocacy"

October 16, 2011

Louise Solliday
Director
Oregon Dept. of State Lands


RE: REQUEST FOR RESTRICTION ON PUBLIC RECREATIONAL USE OF
CHETCO RIVER STATE LAND

Dear Ms. Solliday,

Pursuant to Oregon Administrative Rule 141 - 088 (2), the undersigned do hereby request that the Department of State Lands impose restrictions, as more particularly described in the attached Proposed Rule, on public recreational use of all state land under the jurisdiction of the Department of State Lands in the area known as the Chetco River in Curry County.

The restrictions are necessary because the objectionable activity, to wit, driving recreational vehicles, automobiles, and trucks in, across, and through the Chetco River, poses a significant risk of harm and damage to the natural resources of the land and to the public.

The Chetco River's water quality was found to be an ORV by the federal government, "based on its striking color and clarity, its ability to clear quickly following storm events, its contribution to both recreation and fisheries, and its contribution of exceptionally pure and clean water for the domestic water supplies of both Brookings and Harbor." (<http://www.fs.fed.us/r6/rogue-siskiyou/recreation/rivers>) The river can be adversely affected by small quantities of pollutants, in some cases a gallon or less can significantly impact aquifers. (Water Assessment Report, Harbor Water P.U.D., Harbor, Oregon PWS #4100150 - May, 2002, prepared by DHS and DEQ, Water Quality Division, Drinking Water Protection Program). In addition, there is a significant risk presented in the form of smaller amounts of dangerous and polluting chemicals and substances, including asbestos from brake linings, and copper. Driving vehicles through the river obviously poses a significant risk of harm and damage to the public. The land is heavily used by children and the rest of the public for swimming and other water related recreation, and the activity poses a great risk because the vehicles crossing have limited control, are moving at a relatively high speed for momentum, and are often operated by persons coming from activities where alcohol is consumed. See attached Exhibits 1 and 2 attached. [See attach photos of truck crossing, with little girl in foreground, and photo of truck stuck in river]

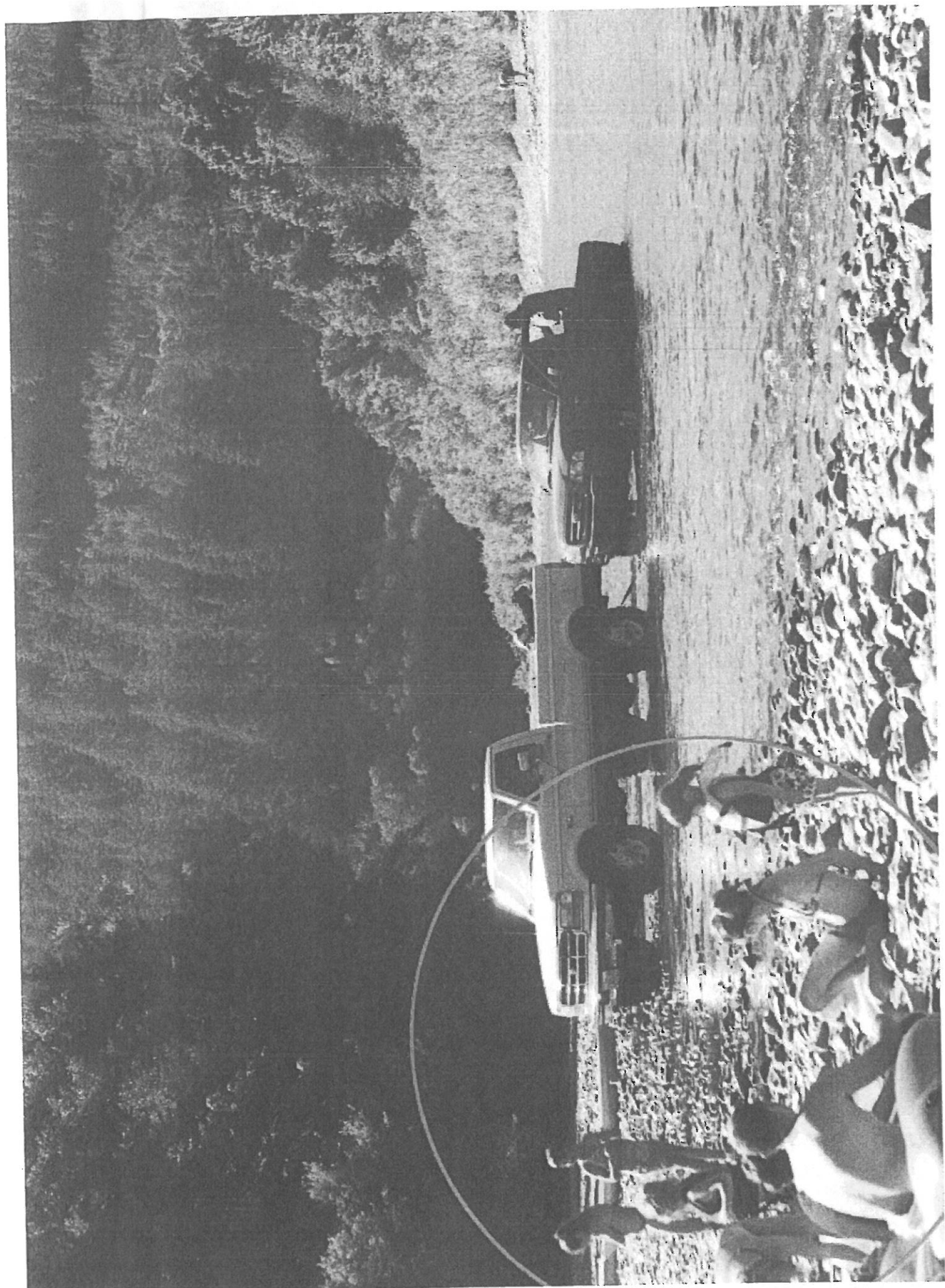
Carl Page

President
Chetco River Watershed Council

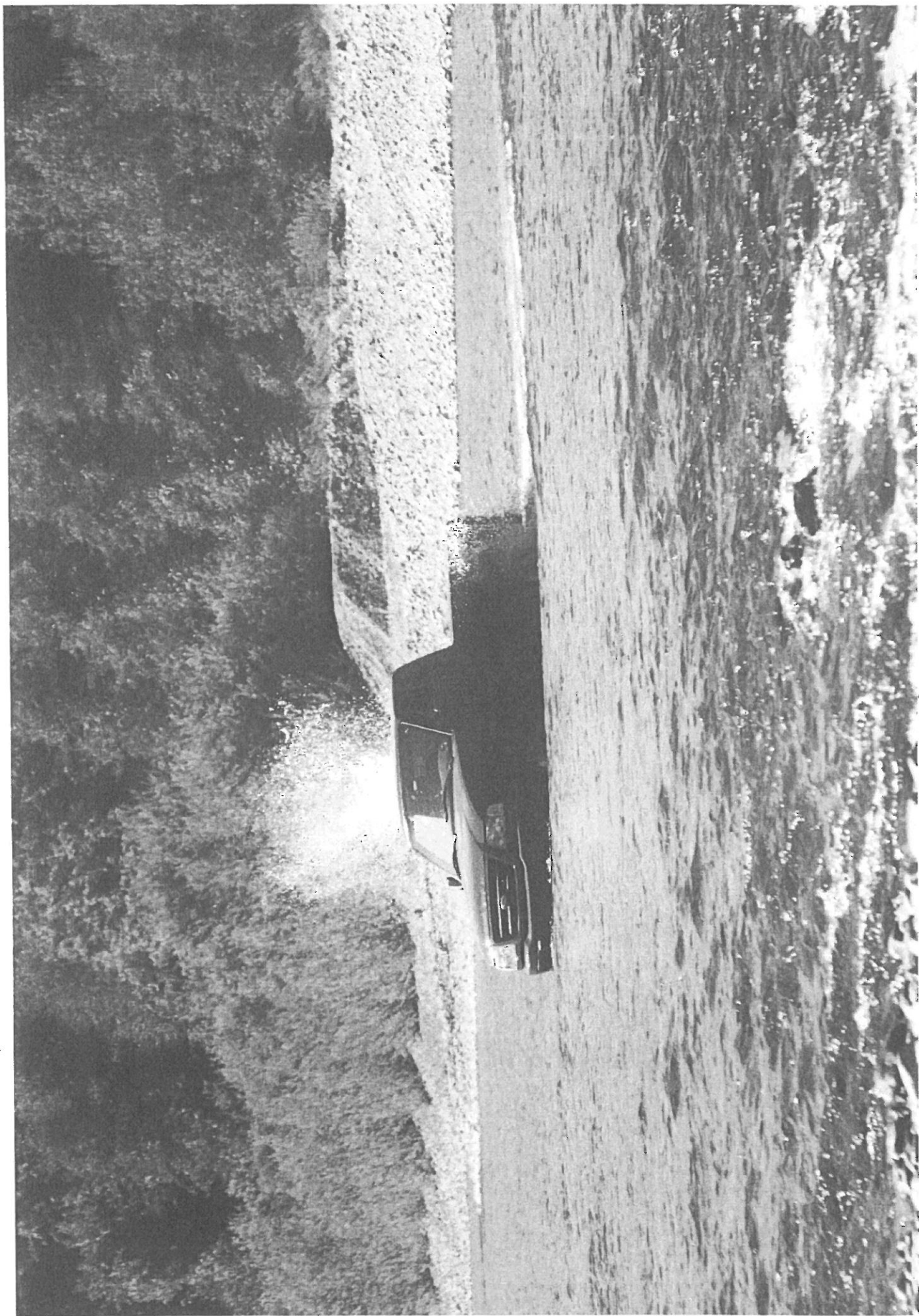
PROPOSED RULE

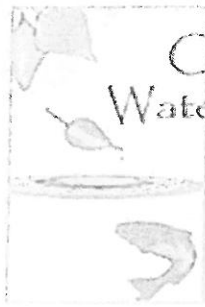
All state-owned land that is under the jurisdiction of the Department that is between the line of ordinary high water and the line of ordinary low water on the Chetco River, and all state-owned upland that is managed by the Department that is also in the vicinity of, or that comprises the Chetco River, is subject to the following prohibition:

(1) The driving in, across, or through, the wetted channel of the river by motorized vehicles for recreational purposes is prohibited.

Excepted from the closure are government-owned vehicles on official business, motor or non-motorized boats, vehicles used in the launching of boats, public and private utility vehicles performing company business, and vehicles operating in activities under permit, vehicles involved in rescue or emergency activities, and permitted vehicles engaged in repair of fences and placement of bank protection material







Chetco River Watershed Council

EIN#271155455
PO Box 882
Brookings OR 97415

"Stewardship and Advocacy"

April 26, 2011

Dear Watershed Council Members,

Unquestionably every year the Chetco River suffers more "stressors" from human impacts. From short sighted and inconsequential housing developments in the lower floodplain to ever increasing water demands upon the river and riparian and aquatic habitat destruction, the CRWC is concerned with the rate of habitat destruction and responsible resource agency enforcement of State and Federal water quality laws. Curry County has now ranked Chetco River water quality as second to last behind Flores Creek.

Ever increasing water extraction from the river during late summer low-flow conditions, for the cities of Harbor and Brookings, further reduces water quality and increased water temperatures downstream. The capacity of crucial lower mainstem reaches and the estuary to support rearing fish is thus reduced. Cumulative impacts continue to reduce the ability of river ecological processes to heal itself. The CRWC cannot allow what were permissible practices in the last century, set the rivers future fate. Clearly we need a better vision for how to manage, conserve, and restore crucial habitats of the Chetco River.

Every year more salmon and steelhead spawning habitat in tributaries is lost to avoidable siltation. Water quality parameters including dissolved oxygen and pH are reduced while water temperatures increase to the detriment of rearing fish and prey species. Current fisheries science is beginning to understand the vital importance of lower tributaries as *thermal refugia* for rearing coho salmon which require colder water temperatures than other salmonids. Ongoing temperature monitoring shows that Joe Hall and Jack Creeks provide the coldest temperatures of any tributaries during summer months.

It is of specific concern that the spawning and rearing habitat for the remnant population of federally threatened coho salmon in the Chetco River and its continued decline. A screw trap in Jack Creek captured and recorded over 450 coho and well over 1000 chinook and steelhead out-migrants several years ago. Last year over a dozen returning coho adults were caught and released. The conservation of their habitat in the lower tributaries is critical for the survival and recovery of coho salmon in the Chetco River.

In the Federal Register Vol.64, No. 86/ Wednesday, May 5 1999 / Rules and Citation (50 CRF part 226) clearly requires something be done about the destruction & adverse modification of designated critical habitat for SONCC coho salmon, which is Federally protected pursuant to the statutes of the United States Endangered Species Act of 1973, as amended. Jack and Joe Hall Creeks are Federally protected Essential Fish Habitat (EFH), pursuant to the statutes of the U.S. Magnuson-Stevens Fisheries Conservation Act, managed under the Pacific Coast Fisheries Management Plan for Pacific Coast Salmon (coho and chinook).

The Scientific Literature* out-migrant traps, ongoing temperature monitoring, and instream habitat survey indicates the critical importance these tributaries play in supporting coho salmon life history strategies in the Chetco watershed. Photo-documentation of fish habitats and overwhelming stressors they are being subjected to should prompt immediate State and Federal resource agency actions to protect these invaluable fishery resources. From unmaintained logging roads and off-channel gravel mines and storage above Joe Hall Creek to the cumulative effects from chemical pollution and siltation from Salmon Run golf course and Freeman Rock quarry siltation, coho are under threat from with inadequate ineffective erosion control measures. This water quality violations fall under jurisdictions of State and Federal resource agencies including DEQ, NOAA, ODFW and DOGAMI.

The watershed council voices our concerns over the lack of oversight and commitment to habitat conservation and restoration the Chetco River and Fishery. It is the life-blood of our sport fishery economy and significant portion of our local tourism dollars. It can also contribute to our local commercial fleet's success- meaning local jobs and healthy economy. To this end the watershed council wishes to reiterate its support for riparian and salmon habitat conservation and restoration opportunities such as easement and property purchase, as well as increased fisheries surveys.

We hope to coordinate with agencies dealing with actions that degrade Salmon habitat so that we may efficiently work together on riparian protection strategies for these two tributaries and the overall Chetco River watershed.

Sincerely,



Carl Page
President
Chetco River Watershed Council

*The Fate of Coho Salmon Nomads: The Story of an Estuarine-Rearing Strategy Promoting Resilience <http://www.ecologyand society. Org/vol114iss/art4/main.html>

Gary Milliman

From: Ron Hedenskog
Sent: Tuesday, January 15, 2013 5:27 PM
To: Gary Milliman
Subject: FW: As Requested.....

From: Cam Lynn [mailto:camnpam@charter.net]
Sent: Tuesday, January 15, 2013 12:33 PM
To: rhedenskog@brookings.or.us; bhodges@brookings.or.us; jpieper@brookings.or.us; kmcclain@brookings.or.us
Subject: As Requested.....

Mayor Hedenskog
Members of the Council

Thank you for this opportunity to speak here regarding the proposed rule prohibiting vehicles from crossing the Chetco River.

The first thing I'd liked to do is to request your support and influence in opposing this rule. I appreciate that the rule itself may not be a high priority for you and certainly does not affect many people. My concern is that a senseless rule such as this may pass by default, not because there is any logical, rational reason for the rule, but because those of us that know better sat by and didn't speak out as we should have.

A great majority of those attending the hearing on December 19th opposed this rule. The real news that came out of the meeting was that the opposition to the rule was overwhelming and it was opposition that had a basis in decades of observation and experience on, in, and around the river. Of major concern is that if this rule passes on the basis of the misinformation and twisted science being used to promote it, then those tactics are sure to be used to pass further rules of more importance that affect many more of us.

I believe that we can work together and successfully oppose this rule. The city has experience in navigating the rule making process that many of us in the community lack, and some of you have extensive and intimate knowledge of the river itself, as do many of us.

Second tonight, I'd like to place into perspective what this rule is attempting to prohibit. In other words, how significant, in light of all that has happened and still does happen to the river, is the impact of a few vehicles crossing the river. This list is certainly not complete, but presents a good sample of what activity the river can sustain and still remain a beautiful and pristine river.

1. In the beginning log trucks and all manner of support vehicles and equipment drove through the river and on the river bars pursuing their logging operations.
2. Many fires have burned in the Chetco River watershed. Most recently the Silver Fire and the Biscuit fire burned thousands of acres. In the last sixty years many other, less noteworthy fires have also burned. All of these fires have contributed their soot, ash, and debris to the Chetco River.
3. Numerous bridges have built across and in the Chetco River in order that logging and other operations might continue.
4. In the early days logging roads were "surfaced" yearly with thousands of gallons of diesel and diesel related products for dust abatement purposes and in order to provide a better road surface for the heavy commercial traffic.
5. In the 70s and 80s both private and public forest lands in the Chetco River watershed were sprayed yearly with thousands of gallons of herbicides mixed in diesel fuel in order to kill less valuable tree species and make room for more valuable species.
6. Up until a few years ago much of our city's treated sewage was recycled to both public and private land, some land being directly adjacent to the Chetco River. This was a great benefit to both the landowners and the city.
7. Still today there are at least four herds of cattle that range both in and near the Chetco River.
8. Every winter thousands of tons of material and debris get washed down the river. Big rocks. Little rocks. Sand. Silt. Clay. Mud. Trees. Tree stumps. Tree roots. Tree branches. Grasses. Algae. Moss. Dead animal remains. Dead salmon. All in the river.

This is only a partial list but shows clearly that the Chetco River and its tributaries can easily sustain and not degrade in the face of multiple uses over many decades. A few vehicles crossing the river in our time will have little or no impact on the clarity of the river, on the quality of our drinking water, and on the many other notable features the Chetco River is known for.

Finally, I'd like to clearly express the tactics used to introduce and move this proposed rule through Oregon's rule making process. The Chetco River Watershed Council has listed a number of unexamined and unsubstantiated assumptions as being true in order to make their position seem reasonable. Their assumptions cannot be verified, therefore their position is neither reasonable nor rational.

The words used by the WS council have been chosen specifically and for the sole purpose of causing alarm and outright fear.

For example:

1. "significant risk of harm and damage"
2. "significantly impacts aquifers"
3. "significant risk presented"
4. "significant risk of harm and damage to the public"
5. "activity poses a great risk"

No risk, harm, or damage has been demonstrated and in fact, neither alarm nor fear is warranted.

The method used here by the CRWC is pernicious and evil in that it attempts to reach a goal (the proposed rule) by frightening the public through the use of arguments that cannot be shown to be true but who's only purpose is to create fear.

Gary Milliman

From: Ron Hedenskog
Sent: Tuesday, January 15, 2013 5:27 PM
To: Gary Milliman
Subject: FW: Testimony to the State regarding the new River Rule

From: Cam Lynn [mailto:camnpam@charter.net]
Sent: Tuesday, January 15, 2013 12:39 PM
To: rhedenskog@brookings.or.us; bhodges@brookings.or.us; jpieper@brookings.or.us; kmcclain@brookings.or.us
Subject: Testimony to the State regarding the new River Rule

Mayor Hedenskog
Members of the Council

Here are some thoughts that I have gathered together so far to express to the State of Oregon Land Management Division.

To: State of Oregon Land Management Division
From: Cam Lynn, Brookings Oregon
Subject: Division 88 Chetco River Rulemaking
141-088-0050 Restrictions for the State-Owned Banks of the Chetco River

PART I **Introduction**

I wish to express my opposition to the rule prohibiting vehicle traffic across the Chetco River.

I have been a river user for 40 years. I kayak on the river. I snorkel (mostly summer, rarely winter) and swim in the river. I hike year round in the watershed and tributaries of the river. I have a Bachelor of Science degree in Environmental Science from Washington State University.

My primary concern is that this rule has been proposed and is well into Oregon's rule making process and yet there has not yet been shown a logical, valid, demonstrable reason for the rule. In other words the rule is being proposed based on a number of unsubstantiated assumptions. Of major concern is that if this rule passes on the basis of the misinformation and twisted science being used to promote it, then those tactics are sure to be used to pass further rules of more importance that affect many more of us.

The *apparent* strength and urgency of the proposal is due to the extreme yet unwarranted words used to express to the public and the State of Oregon the need for the rule. In the letter presented to the State the following phrases are found:

- A. "significant risk of harm and damage"
- B. "significantly impacts aquifers"
- C. "significant risk presented"
- D. "significant risk of harm and damage to the public"

E. "activity poses a **great risk**"

The word "**significant**" is used consistently to add an urgency to the need for this rule. Yet the risks, harm, damage, impacts, if actually presented, are not demonstrated in a rational or scientific manner and really don't have much, if anything, to do with vehicles crossing the river.

PART II
The Letter Sent to the State by the Chetco River Watershed Council
Dated October 16, 2011

The letter states:

"The restrictions are necessary because the objectionable activity, to wit, driving recreational vehicles, automobiles, and trucks in, across, and through the Chetco River, poses a significant risk of harm and damage to the natural resources of the land and to the public."

The stated reason for the rule (the risk of harm and damage) in the letter from Carl Page can not be demonstrated.

The letter goes on to state :

"The Chetco River's water quality was found to be an ORV by the federal government, "based on its striking color and clarity, and its ability to clear quickly following storm events, its contribution to both recreation and fisheries, and its contribution of exceptionally pure and clean water for the domestic water supplies of both Brookings and Harbor."

This is the current state of the river that remains so in the face of all of the activity we see occurring today, including vehicles driving across the river. I would suggest that if the river clears quickly after a storm event, it also clears pretty quickly after a pickup crosses the river.

The letter goes on to state:

"The river can be adversely affected by small quantities of pollutants, in some cases a gallon or less can significantly impact aquifers"

That the river can be adversely affected by small quantities of pollutants, depending upon what they are, may be true. However, there is no attempt to tie this concern to vehicles crossing the river. It's left to the imagination as to what the adverse impacts might be and what the pollutants are that might cause the adverse affects. Also left to the imagination are which pollutants of less than a gallon in quantity coming from a vehicle crossing the river could significantly impact an aquifer. After all, the letter already recognizes the high quality of the river's water, and that is with vehicles crossing the river.

The letter goes on to state:

"In addition, there is significant risk presented in the form of smaller amounts of dangerous and polluting chemicals and substances including asbestos from brake linings, and copper."

Once again it is left to the imagination what the dangerous and polluting chemicals are, but what we do know is that whatever the substances are, they include asbestos and copper. There are certainly no *significant risks* shown.

The letter goes on to state:

"Driving vehicles through the river obviously poses a significant risk of harm and damage to the public. The land is heavily used by children and the rest of the public for swimming and other water related recreation, and the activity poses a great risk because of the vehicles crossing have limited control, are moving at a relatively high speed for momentum, and are often operated by person coming from activities where alcohol is consumed."

It is certainly NOT obvious that vehicles crossing the river pose a significant risk of harm and damage to the public. That was expressed clearly at the December 19th hearing in Brookings. The rest of this paragraph is utter nonsense and certainly was not demonstrated, nor can it be. It's concocted for the sole purpose of adding emotional weight to their rule making argument.

The photos submitted with the letter:

The first photo is a pickup before "getting stuck". In looking at the photo there is no harm, damage, or risk presented.

The second photo shows the vehicle getting "unstuck" though at this time both vehicles are stopped and there is no harm, damage, or risk presented. Those in the area continue to enjoy the river and the sunny day.

The risk, harm, or damage in this incident is only that which is imagined.

Part III

An Abbreviated History of Chetco River Activity

In this section I wish to put into perspective the impact of vehicles crossing the Chetco River in the light of activity that has occurred in the area of the river in the last 60 or so years, and in light of activities that are still occurring. This list is not complete but presents a good sample of what activities the river can accommodate and remain a beautiful and pristine river.

1. In the beginning log trucks and all manner of support vehicles and equipment drove through the river and on the river bars pursuing their logging operations.
2. Many fires have burned in the Chetco River watershed. Most recently the Silver Fire and the Biscuit fire burned thousands of acres. In the last sixty years many other, less noteworthy fires have also burned. All of these fires have contributed their soot, ash, and debris to the Chetco River.
3. Numerous bridges have built across and in the Chetco River in order that logging and other operations might continue.
4. In the early days logging roads were "surfaced" yearly with thousands of gallons of diesel and diesel related products for dust abatement purposes and in order to provide a better road surface for the heavy commercial traffic.
5. In the 70s and 80s both private and public forest lands in the Chetco River watershed were sprayed yearly with thousands of gallons of herbicides mixed in diesel fuel in order to kill less valuable tree species and make room for more valuable species.
6. Up until a few years ago much of our city's treated sewage was recycled to both public and private land, some land being directly adjacent to the Chetco River. This was a great benefit to both the landowners and the city.
7. Still today there are at least four herds of cattle that range both in and near the Chetco River.
8. Every winter thousands of tons of material and debris get washed down the river. Big rocks. Little rocks. Sand. Silt. Clay. Mud. Trees. Tree stumps. Tree roots. Tree branches. Grasses. Algae. Moss. Dead animal remains. Dead salmon. All in the river.

This is only a partial list but shows clearly that the Chetco River and its tributaries can easily sustain and not degrade in the face of multiple uses over many decades. A few vehicles crossing the river in our time will have little or no impact on the clarity of the river, on the quality of our drinking water, and on the many other notable features the Chetco River is known for.

PART IV

Comments on the October 30th, 2012 RAC Meeting

During this meeting there were a number of comments that were merely opinions, exaggerations, or simply untrue.

1. The comment was made that State and local law enforcement is in support of the proposed rule. Clearly the State Police supports the rule but there is no indication in the record that other law enforcement supports the proposed rule. While it is a big help to have law enforcement agree with the proposed rule, it must be demonstrated and honest support to be of genuine value.
2. Trooper Stinnett says in this meeting that it is "not OK to ever be in the river with a vehicle". It is unclear to me if this is his opinion, the opinion of the State Police, or a statement of the legality of the issue. Regardless of why he made this statement, there is no indication of his reason for saying this. It's one thing to have an opinion, and another to be able to support it. He offers no support.
3. This becomes important when he makes the statement that as many as 20 to 30 vehicles cross the river at Loeb Park per day in the summertime. To those of us that use the river this number seems greatly exaggerated. I don't believe this number has been verified, nor can it be. This is another opinion that cannot be verified. Regarding this proposed rule, I'm looking for more than just opinions, I'm looking for opinions that can be substantiated or demonstrated. Trooper Stinnett does neither.
4. Carl Page makes the comment that "Every vehicle has asbestos on their brake shoes". Once again, this is an opinion that is simply not true.

Part V

Letter from Carl Page to the Chetco River Watershed Council

April 26, 2011

This letter is included in the material presented to the State, and while some of the contents may be factual, it does not seem to have a direct bearing on the proposed rule the State is considering.

The exception may be the statement in the second paragraph:

"The CRWC cannot allow what were permissible practices in the last century....."

The CRWC has clearly stepped outside of its bounds as an advisory group and in this current issue (with their new mission of "cannot allow") has clearly misapplied science used fear tactics in order to gain their ends.

Part VI Conclusion

I believe this rule is ill advised. It is being promoted on the basis of unsubstantiated and unverifiable assumptions, and emotional jargon used solely to incite an emotional response apart from any rational reflection of what is really happening in and around the Chetco River. Whatever activity is happening with the river today seems to be working out pretty well. It remains a great area for recreation and fishing, and provides superb drinking water to both Brookings and Harbor.

Thank you for the opportunity to comment.

Cam Lynn
Brookings, OR

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: January 28, 2013

Originating Dept: Planning Division
PWDS

Donna Colby-Hanks
Signature (submitted by)
[Signature]
City Manager Approval

Subject: Resolution to revise Public Art Committee decision appeal process.

Recommended Motion: Motion approving Resolution 13-R-998 to revise the appeal process for Public Art Committee decisions and repeal Resolution 08-R-905.

Financial Impact: N/A.

Background/Discussion: On September 8, 2008, the City Council approved Resolution 08-R-903 that adopted general guidelines for mural applications. This resolution provided that an applicant whose proposal was denied could appeal to the Brookings Planning Commission per Chapter 17.156, Brookings's Municipal Code (BMC). At the same meeting, the City Council also approved Resolution 08-R-905 which created the Public Art Committee whose duties included the review of mural applications. This resolution provided that an applicant whose proposal was denied could appeal to City Council. These two resolutions are in conflict.

Chapter 17.88, Sign, BMC exempts wall graphics from sign regulations except that murals must be reviewed by the Public Art Committee and conform to general guidelines. Appeals of sign regulations are heard by the Planning Commission as are other Staff decisions and interpretations from Title 17, Land Development Code. Appeals of mural proposals that are denied should follow the same process and be heard by the Planning Commission. This would occur with approval of Resolution 13-R-998.

Policy Considerations: None.

Attachment(s): "A" - Resolution 08-R-903
"B" - Resolution 08-R-905
"C" - draft Resolution 13-R-998

IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON

IN THE MATTER OF A RESOLUTION
ADOPTING A SET OF GUIDELINES TO BE
USED IN REVIEWING PROPOSALS FOR
MURALS WITHIN THE CITY OF
BROOKINGS.

RESOLUTION 08-R-903

WHEREAS, the City of Brookings adopted Ordinance 08-O-608, amending Chapter 17.88, Sign Regulations, of the Brookings Municipal Code, which became effective May 27, 2008; and

WHEREAS, Chapter 17.88 now requires murals to conform to general guidelines;

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of the City of Brookings, Curry County, Oregon, that the general guidelines for mural applications, as shown in Exhibit A, be adopted; and

BE IT FURTHER RESOLVED that a fee for the mural permit be set and updated annually by Master Fee Resolution.

Adopted by Council and made effective on the 8th of September, 2008.

Dated and signed this 9th day of September, 2008.


Mayor Larry Anderson

Attest:


City Recorder Joyce Heffington

Design and Review Criteria for Public Art — Murals

Definition: A mural is a painting, mosaic, fresco, or other permanent artwork attached or applied directly to the outside of a structure.

General Guidelines

These guidelines provide anyone who wants to install a mural with a reasonable process that safeguards both the interests of the community and those of the individual building/property owner. The guidelines are designed to assure that murals within the City of Brookings enhance the community's appearance, without confusing drivers and/or pedestrians or causing any other negative impact on public safety or welfare.

In reviewing proposals for public (outdoor) murals, all of the following criteria will be considered:

Is the location appropriate?

Some locations may simply be inappropriate for murals, due to safety issues, potential maintenance problems, or complicated building geometry.

Too many murals?

To avoid the appearance of blight, the number of murals may have to be limited. If your neighborhood already has several murals, chances are, your mural proposal will not be approved.

How big is too big?

By their very nature, murals are large artworks. But, when murals become so large as to overwhelm the local streetscape and/or become a visual distraction, they are not likely to gain approval.

No logos or advertising, please!

Murals are considered public art, not billboards or signs. Murals containing logos, slogans, or advertising messages of any kind are considered signs and must comply with Chapter 17.88, Sign Regulations, Brookings Municipal Code (BMC).

Detailed mural guidelines and criteria

In addition to the general guidelines above, the Site Plan Committee, or a Public Art Committee appointed by the City Council, will evaluate mural proposals based on the following:

Design and content

- Relevance of the piece to the building or city, its values, culture, and people — murals within the city of Brookings should be based on one or more of the following themes: natural beauty; history and/or Native American heritage; logging, fishing, local agriculture or other relevant themes;
- Suitability of the work for outdoor display, including its maintenance and conservation requirements;
- Relationship of the work to the site and the community, especially how it serves to activate or enhance public space;
- Appropriateness of the scale of the artwork.

Site selection

In order to ensure that public art is fairly and equitably distributed throughout the city, and that it is sited in such a way as to enhance and activate public spaces, sites where murals are to be displayed should:

- Experience high levels of pedestrian traffic and be part of the city's circulation paths;
- Be easily visible and accessible to the public;
- Serve to anchor and activate its site;
- Enhance the overall public environment and pedestrian streetscape experience;
- Help to create a place of congregation and activity;
- Establish landmarks and neighborhood gateways.

Placement

The following are guidelines for mural placement:

- Mural art should be publicly accessible 24 hours per day, or, during the normal hours of operation if in a park.
- It should not obscure windows or entranceways, nor disrupt normal pedestrian circulation unless that is the purpose of the artwork..
- It should not be placed in a given site if it disrupts the site's landscaping and maintenance requirements.
- It should not be so large as to overwhelm adjacent architecture or become a visual distraction.
- It should not detract from its surroundings nor create "blind" spots where illegal activity can take place.
- It should be located in a site where it will enhance and activate the pedestrian and the streetscape experience.

Construction and Maintenance

1) Murals shall be well designed and incorporate high-quality materials that enhance the overall appearance of the site and not adversely affect safe and efficient movement of vehicles and pedestrians. Materials may include paint or other media appropriate for exterior use, such as tile or mosaic. Materials shall be long-lasting and graffiti-resistant to the greatest extent possible.

- 2) Colors, though vibrant, should be complimentary and harmonious with the exterior colors of the building structure, as well as consistent with the chosen theme. Neon, fluorescent, or reflective-type colors or materials are discouraged.
- 3) The mural shall be designed and painted by a qualified artist/muralist, one with sufficient knowledge and experience with the application of mural materials.
- 4) Mural size shall be determined by the wall surface to be covered. Smaller walls may be completely covered. On large walls, murals should be large enough to dominate the wall surface, but not so large as to overwhelm the local streetscape. Generally, one mural will be permitted per structure.
- 5) As indicated above, no advertising, logos, or political messages will be allowed. The mural artist's signature may appear, provided that it is not so prominent as to detract from the mural display.
- 6) The proposed mural, by its design, construction, and location, shall not obscure or detract from the significant architectural features of the building structure; nor should the building's architecture be altered to accommodate the mural.
- 7) The proposed mural, by its design, construction, and location, shall not have an adverse impact on adjacent properties or permitted uses. If the mural requires special lighting or other related construction, all applicable permits will be required as part of installation.
- 8) *Routine maintenance of an artwork becomes the responsibility of the building owner where the artwork is located. As part of the contractual requirements, the artist should develop a maintenance program in cooperation with the building owner or manager for the proper long-term care of the artwork.*

If, for whatever reason, the mural falls into disrepair, the building owner will be notified in writing and required to make necessary repairs within 60 days. If the repairs are not made within the specified time, the city reserves the right to repair or remove the mural at the owner's expense. The process found in BMC 8.15.090, General Abatement Procedure, will be followed.

Application Review and Approval Process

An applicant desiring to install a mural on a building in Brookings is required to submit a formal application, a scaled color rendering of the proposed project, and a photograph showing the building location of the proposed mural.

Mural proposals that do not meet all of the design criteria/guidelines may be denied by the Site Plan Committee, or the Public Art Committee, or accepted with

required modifications. Applicants whose proposals are denied may appeal to the Brookings Planning Commission per Chapter 17.156, BMC.

Schedule:

Mural installation must begin within 60 days of approval, and must be completed within six months of the start date. If these dates are not met, the Site Plan Committee, or the Public Art Committee, may, at its discretion, cancel the mural permit. A one-time extension for an additional 60 days may be granted if the request is submitted in writing prior to the end of the initial 60-day period.

IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON

IN THE MATTER OF A RESOLUTION
CREATING A PUBLIC ART COMMITTEE
TO SERVE THE CITY OF BROOKINGS.

RESOLUTION 08-R-905

WHEREAS, the City of Brookings adopted Ordinance 08-O-608, amending Chapter 17.88, Sign Regulations, of the Brookings Municipal Code, which became effective May 27, 2008; and

WHEREAS, Chapter 17.88 now requires murals to conform to general guidelines;

WHEREAS, Resolution 08-R-903 adopted the general guidelines;

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of the City of Brookings, Curry County, Oregon, that the Public Art Committee is created as described in Exhibit A to review mural applications.


Adopted by City Council and made effective on the 8th of September, 2008.

Dated and signed this 9th day of September, 2008.



Mayor Larry Anderson

Attest:



City Recorder Joyce Hefington

City of Brookings

Public Art Committee

A. General duties and responsibilities:

1. The Public Art Committee reviews applications to create a mural, defined as a painting, mosaic, fresco, or other permanent artwork attached or applied directly to the outside of a structure. The Committee shall use the Mural Guidelines, adopted by the City Council in Resolution 08-R-903, to review applications to create a mural.
2. Committee members shall serve at the pleasure of the City Council.
3. Committee membership is honorary and without compensation.
4. All Committee meetings shall be open to the public and held in a place that is handicapped accessible.
5. This committee may be assigned other duties related to review of other types of public art by the City Council.

B. Membership.

1. The committee shall consist of five voting members to be appointed by the City Council, and a non-voting Staff member to consist of the Planning Director or his/ her designee.
2. Three members must reside within the City of Brookings, while the remaining two may reside within the Brookings Urban Growth Area. These members shall not be officials or employees of the city.
3. Three members must have an art background (i.e. teacher, artist, collector, gallery owner).
4. The Chair of the Committee shall designate a Committee member whose responsibility it shall be to record the minutes of the meetings.

C. Terms of Appointment/Removal/Vacancies.

1. Terms shall be initially staggered so that three members serve a term of three years and two members serve a term of two years. Thereafter, all terms shall be for three years.
2. Vacancies created by a mid-term resignation or termination shall be filled by appointment of the City Council.
3. Members may be removed by a consensus of the City Council for any reason and at any time during the member's term of appointment. Failure of a member to attend less than 50% of the meetings shall result in automatic termination, unless the absences have been excused by the Committee's Chair.

D. Election of Officers.

1. At the first meeting of each calendar year, a Chair and Vice-Chair shall be elected from the voting members of the Committee for a one year term.
2. The newly elected officers shall take their seats at the first meeting of the next calendar year.
3. No member shall serve more than two consecutive years in any one office.

E. Quorum/Rules/Meetings.

1. Three voting members of the Committee shall constitute a quorum.
2. The Committee shall meet on an as-needed basis when an application has been submitted. All meetings shall be open to the public and noticed in accordance with State Public Meeting Law (Chapter 192 ORS).
3. Voting by the Committee on all matters shall be consistent with the process adopted by the City Council under Chapter 2.05.160 of the Brookings Municipal code, with the exception that the Committee member designated by the Chair to take the minutes shall call the names of each member and record the votes.
4. Applications which are denied may be appealed by a written request from the Applicant to the City Council.

**CITY OF BROOKINGS
STATE OF OREGON**

RESOLUTION 13-R-998

A RESOLUTION OF THE CITY OF BROOKINGS REVISING THE APPEAL PROCESS FOR PUBLIC ART COMMITTEE DECISIONS AND REPEALING RESOLUTION 08-R-905.

WHEREAS, the City of Brookings adopted Ordinance 08-O-608, amending Chapter 17.88, Sign Regulations, of the Brookings Municipal Code, which became effective May 27, 2008; and

WHEREAS, Chapter 17.88 requires murals to conform to general guidelines; and

WHEREAS, Resolution 08-R-903 adopted the general guidelines and provides that any murals applications that are denied can be appealed by the applicant to the Planning Commission ; and

WHEREAS, Resolution 08-R-905 created a Public Art Committee which provides that any murals that are denied can be appealed by the applicant to City Council in conflict of Resolution 08-R-903; and

WHEREAS, Regulations in Title 17, BMC are considered land use decisions and Staff interpretations from these regulations are appealed to the Planning Commission;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brookings, Oregon, that the procedure of the Public Art Committee to review mural applications are described in Exhibit A with denials appealable to the Planning Commission.

Passed by the City Council _____, 2013 and made effective _____.

Attest:

Mayor Ron Hedenskog

City Recorder Joyce Heffington

Exhibit A

City of Brookings

Public Art Committee

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2. Committee members shall serve at the pleasure of the City Council.
3. Committee membership is honorary and without compensation.
4. All Committee meetings shall be open to the public and held in a place that is handicapped accessible.
5. This committee may be assigned other duties related to review of other types of public art by the City Council.

B. Membership.

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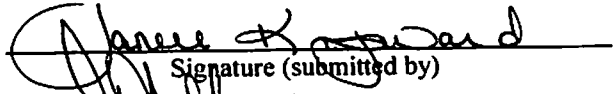

4. Applications which are denied may be appealed to the Brookings Planning Commission per Chapter 17.156, BMC.

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: January 28, 2013

Originating Dept: ASD


Signature (submitted by)

City Manager Approval

Subject:

Adoption of Resolution 13-R-996, setting System Replacement Fees, and Adoption of Resolution 13-R-997, financing infrastructure improvements related to the November 19, 2012 storm.

Recommended Motion:

Adopt Resolution 13-R-996, adopting System Replacement Fees, effective February 1, 2013.

Adopt Resolution 13-R-997, authorizing the financing of infrastructure repairs and improvements related to the November 19, 2012 storm.

Financial Impact:

The estimated annual receipts from the increased System Replacement Fees is \$100,000, to be used for the debt service payments on the new financing of infrastructure repairs and improvements. The total debt is anticipated to increase by \$850,000.

Background/Discussion:

An unusually heavy rain storm on November 19, 2012, damaged City facilities at several locations and exposed areas needing more immediate attention to improve drainage systems. Staff continues to refine cost estimates for repairing storm damage and making longer-term improvements.

On January 14, 2013, the City Council approved financing storm damage repair and mitigation including an increase in System Replacement Fees not to exceed \$2.35 per month. The most current cost estimates total \$850,000 for the Restoration phase, requiring an increased SRF of \$2.31. This will include \$.11 for Streets, \$.07 for Water, \$.89 for Wastewater, and \$1.24 for Stormwater.

Attachments:

Resolution 13-R-996 and 13-R-997

CITY OF BROOKINGS

RESOLUTION 13-R-996

A RESOLUTION ADOPTING FEES AND CHARGES FOR SYSTEM REPLACEMENT FOR THE WATER SYSTEM, WASTEWATER SYSTEM, STREET SYSTEM, AND STORM WATER SYSTEM, AND ESTABLISHING AN ANNUAL INFLATIONARY ADJUSTMENT FOR REPLACEMENT CHARGES, AND REPEALING RESOLUTION 12-R-983 IN ITS ENTIRETY.

WHEREAS, Ordinance 87-O-419 provides for adoption of System Replacement Charges and Ordinance 06-O-574 provides for all future revisions to System Replacement Charges to be adopted by resolution of the City Council; and

WHEREAS, the collection of reasonable charges are necessary to finance capital replacement, non-capacity increasing extension, and non-capacity increasing expansion of municipal utility facilities, including the acquisition of land or rights-of-way thereto; and

WHEREAS, the storm of November 19, 2012 damaged City facilities and exposed areas needing more immediate attention, and

WHEREAS, the City Council has authorized financing those improvements and repayment of that debt through increased System Replacement Fees;

NOW, THEREFORE, BE IT RESOLVED: by the Mayor and City Council of the City of Brookings, Curry County, Oregon, that effective February 1, 2013, the following Utilities System Replacement Charges are replacing the current Utilities System Replacement Charges:

<u>CHARGE</u>	<u>RATE</u>
Street System Replacement	\$2.90
Water System Replacement	\$2.86
Wastewater System Replacement	\$3.68
Stormwater System Replacement	\$4.03

BE IT FURTHER RESOLVED that Resolution 12-R-983 is repealed in its entirety.

PASSED by the City Council January 28, 2013.

Attest:

Mayor Ron Hedenskog

City Recorder Joyce Heffington

CITY OF BROOKINGS

RESOLUTION 13-R-997

A RESOLUTION OF THE CITY OF BROOKINGS AUTHORIZING FULL FAITH AND CREDIT BORROWINGS TO FINANCE INFRASTRUCTURE REPAIRS AND IMPROVEMENTS IDENTIFIED BY THE NOVEMBER 19TH STORM EVENT.

WHEREAS, the City of Brookings, Oregon (the “City”) is authorized by Oregon Revised Statutes Section 271.390 to enter into financing agreements to finance or refinance real or personal property which the City Council determines is needed; and,

WHEREAS, the City finds it desirable to finance up to \$850,000 of additional improvements to its streets, water, wastewater, and stormwater systems (the “Improvements”); and,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brookings that:

1. Authorization of Financing Agreements.

- 1.1 The City is hereby authorized to enter into one or more financing agreements pursuant to ORS 271.390 and ORS Chapter 287A to finance the Improvements and to pay estimated costs of the financing. The net proceeds of the financing agreements that finance the Improvements shall not exceed the amount estimated to be required to provide \$850,000 for costs of Improvements, plus estimated costs of the financing.
- 1.2 The financing agreements authorized by this Section 1 are referred to in this Resolution as the “Financing Agreements.”

2. Determination of Need.

The City hereby determines that the Improvements and the projects financed are needed.

3. Delegation.

The City Manager and the Finance and Human Resources Director (each of whom is referred to in this resolution as a “City Official”) may, on behalf of the City and without further action by the Council:

- 3.1 Negotiate, execute and deliver one or more escrow agreements or similar documents (the “Escrow Agreements”) that provide for the issuance of one or more series of “certificates of participation” or “full faith and credit obligations” (the “Obligations”) that represent ownership interests in the loan payments due from the City under the Financing Agreements. Subject to the limitations of this resolution, the Escrow Agreements and

each series of Obligations may be in such form and contain such terms as the City Official may approve.

- 3.2 Select one or more commercial banks with which to negotiate and execute each Financing Agreement, solicit competitive bids for the purchase of each series of the Obligations and award their sale to the bidder offering the most favorable terms to the City, or negotiate the terms of the sale of each series of Obligations to Seattle-Northwest Securities Corporation, as underwriter, and sell that series to the underwriter.
- 3.3 Deem final and authorize the distribution of a preliminary official statement for each series of Obligations, authorize the preparation and distribution of a final official statement or other disclosure document for each series of Obligations, and enter into agreements to provide continuing disclosure for owners of each series of Obligations.
- 3.4 Apply for ratings for each series of Obligations, determine whether to purchase municipal bond insurance or obtain other forms of credit enhancements for each series of Obligations, enter into agreements with the providers of credit enhancement, and execute and deliver related documents.
- 3.5 Engage the services of escrow agents or trustees and any other professionals whose services are desirable for the financing.
- 3.6 Determine the final principal amount, interest rates, payment dates, prepayment rights and all other terms of each Financing Agreement. Subject to the limitations of this resolution, each Financing Agreement may be in such form and contain such terms as the City Official may approve.
- 3.7 Negotiate, execute and deliver notes to evidence amounts due under the Financing Agreements.
- 3.8 Secure any Financing Agreement with all or any portion of the revenues of the City's wastewater system, and pledge those revenues to repay that Financing Agreement.
- 3.9 Covenant to collect wastewater system revenues in amounts sufficient to pay any Financing Agreement that is secured by those revenues.
- 3.10 Covenant to limit the City's ability to issue future obligations that are secured by the City's wastewater system revenues.
- 3.11 Agree to make deposits to debt service accounts for Financing Agreements up to thirteen months before the payments are required to be made to investors.
- 3.12 Covenant for the benefit of the banks providing the Financing Agreements or the owners of Obligations to comply with all provisions of the Internal Revenue Code of 1986, as amended (the "Code") which are required for the interest paid under the Financing Agreements to be excluded from gross income for federal income tax purposes or issue the Financing Agreements as taxable borrowings.

- 3.13 Determine that interest on any Financing Agreement will be includable in gross income under the Code.
- 3.14 Designate each Financing Agreement as a “qualified tax-exempt obligation” pursuant to Section 265(b)(3) of the Code, if applicable.
- 3.15 Execute and deliver any other certificates or documents and take any other actions which the City Official determines are desirable to carry out this resolution.

4. Security.

Each Financing Agreement shall constitute an unconditional obligation of the City, which is payable from all legally available funds of the City. The City Official may pledge the City’s full faith and credit and taxing power within the limitations of Sections 11 and 11b of Article XI of the Oregon Constitution. In addition, the City Official may secure the Financing Agreements with revenues of the City as provided in Section 3.

Passed by the City Council January 28, 2013 and made effective the same date.

Ron Hedenskog, Mayor

Attest:

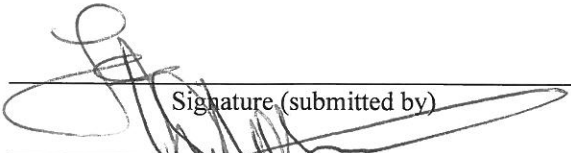
Joyce Heffington, City Recorder

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: January 28, 2013

Originating Dept: PW/DS


Signature (submitted by)

City Manager Approval

Subject: Geotechnical Engineer Services for the Beach Lift Station Site Restoration Project.

Recommended Motion: Authorize the City Manager to execute a professional services contract with GRI to provide geotechnical engineering design and construction support for the Beach Lift Station Site Restoration Project in the amount not to exceed \$45,250.

Financial Impact: The City has spent under \$40,000 to date for a temporary pump and generator, Roto Rooter support, electrical panel and controls relocation, engineering, erosion protection and survey monitoring. Additionally, \$45,250 is required for the geotechnical engineering. Construction costs for the site restoration are estimated at \$113,000. The total expense for temporary measures to provide service, restore the pump station and slope restoration is \$200,000 which is under the estimate of \$350,000 presented to Council on January 14, 2013. This project cost reduction is specifically due to the costs savings of not having to relocate the existing pump station, as well as a cost effective design for the site restoration work. All funds for this project are to be paid from sewer system replacement funds.

Background/Discussion: After the significant rain event in the early morning of November 20, 2012, the Beach Avenue Sewer Lift Station alarms alerted staff that the pumps were non operable. Staff soon discovered a significant landslide around the pump site which left the wet well exposed and the pumps electrical and controls inoperable. Roto Rooter was hired under emergency contract to routinely vacator the sewer wet well from overflowing, while staff contacted DEQ to alert them of the situation. Per DEQ's recommendation based on the potential for environmental contamination, staff hired an experienced sewer emergency response and pump supplier contractor to reestablish 24-hour pumping functionality. Staff retained Stadelman Electrical to reestablish the power and controls to the existing pumps which will allow the City to return the temporary pumps which cost \$10,000/month. Staff retained the services of a geotechnical engineer, Chris Ell with GRI to evaluate the failed slope and provide a feasibility study for options on restoration, and whether restoration of the site would provide a long term solution for the existing sewer lift station.

GRI has provided an innovative site restoration plan that is significantly less than conventional slope restoration techniques. This proposal provides for a rip rap rock buttress design. The existing lift station will be able to stay at its current location which results in significant costs savings.

Construction bidding will occur in early April with an estimated construction start date of May 2013. Additional temporary construction measures, such as rip rap slope stabilization, may be required before construction in May but this expense should be minimal and within the City manager's purchasing authority.

Attachment(s): a. GRI fee proposal



P.O. Box 6219
Brookings, OR 97415
p| 503-641-3478 f| 503-644-8034

January 17, 2013

5396 PRO FINAL DESIGN PS&E OBEC-GRI

City of Brookings
898 Elk Drive
Brookings, OR 97415

Attention: Gary Milliman, City Manager

**SUBJECT: Proposal to Provide Geotechnical Services
Final Design and Construction Support of Slope Repair
Beach Lane Sewer Lift Station
Curry County, Oregon**

At the request of Loree Pryce, PE, GRI is pleased to submit this proposal to provide geotechnical services for final design of the rock buttress, prepare plans and specifications, and provide construction support services for the proposed slope repair at the Beach Lane sewer lift station. Based on our field studies in progress at the site, and as communicated to the City on January 9, 2013, we recommend stabilizing the slope as soon as possible to reduce the possibility of further damage surrounding the lift station. During our recent studies, we observed at least two of the nearby residences located behind and above the slope failure at the lift station that may have experienced damage from past slope movement. Given the significant volume of material lost in the slope failure that occurred on November 20, 2012, it is our opinion additional slope instability could occur behind and upslope of the lift station if a rock buttress repair is not constructed soon.

The proposed geotechnical services for final design of the repair will be a continuation of our current involvement on the project. Our current services include several tasks: a geotechnical feasibility study to recommend a cost-effective alternative to repair the slope failure surrounding the sewer lift station, determine whether the existing lift station can remain in place, and provide an engineer's estimate for the repair. Our conclusions and recommendations for this phase of the project will be provided in a forthcoming letter report.

Project Understanding

The ocean bluff slopes surrounding the Beach Lane sewer lift station failed during heavy rainfall on November 20, 2012. The slope failure has exposed the concrete wet well, and utilities to the lift station were damaged or sheared. The existing concrete wet well is currently tilting downslope. An existing residence is located immediately west of the failure area, and slopes below the garage are slumping. Visual observations of foundation settlement and masonry block cracking in the garage foundation, upper wall rotation, and wall cracking indicate the slopes near Beach Avenue have historically been marginally stable and have likely been affected by past slope movement. The gap fillers observed under the garage door indicate the movements predate the November 2012 event. The residence situated on the slope above the lift station also shows evidence of foundation settlement likely related to slope movement or creep. The access driveway east of the lift station has minor cracking that appears to be of earlier origin as

well. A survey point located at the corner of the garage indicates additional movement has not occurred since the initial survey was completed in November 2012.

Our preliminary findings indicate site conditions are favorable for construction of a rock buttress. GRI retained OBEC Consulting Engineers to provide information on environmental permitting requirements necessary for the slope repair. The findings indicate the area needed to establish a toe key for a rock buttress near the beach is not within an area that requires permitting, other than local city requirements. Therefore, a rock buttress will be the most cost-effective, rapid repair solution. OBEC's findings, including elevations that are the boundary for work zones, will be provided in a forthcoming geotechnical report. It is likely that construction easements will be necessary to build the rock buttress since the footprint of the buttress will extend beyond current city easements shown on the recent survey drawing provided by Roberts & Associates. We understand a damage assessment of the lift station components has been conducted by the city engineer and indicates temporary repairs are feasible and are underway.

Approach and Scope of Work

Our proposed scope of work is tailored to address the tasks listed below. The subsurface exploration program will consist of one drilled soil boring through the existing roadway using a truck-mounted drill rig and installation of a slope inclinometer to measure the depth of movement in the soil mass. All work will be conducted within the existing city right-of-way. Our proposed exploration plan is discussed below.

- 1) **Geological/Geotechnical Investigation and Analysis.** This phase of our work would include a subsurface exploration to evaluate subsurface conditions and assist in final design of the repair. Our proposed scope of work for this phase includes the following items:

- a) One boring will be drilled to a depth of about 50 ft near the midpoint of the area of instability behind the lift station to further evaluate the subsurface materials and conditions that will be encountered during construction and to confirm information necessary for engineering analysis and design. The boring may be terminated at shallower depth if hard rock is encountered. The boring will be made using a truck or track mounted drill rig and mud-rotary methods. Disturbed split-spoon samples and/or undisturbed Shelby tube samples will be obtained from the boring at 2.5- to 5-ft intervals of depth. The Standard Penetration Test will be conducted while the disturbed split-spoon samples are being taken.

A slope inclinometer will be installed in the boring to allow measurement of the slope movement and depth of the slide plane. A vibrating-wire piezometer will be installed with the inclinometer to permit measurement of hydrostatic pressures. The piezometer will be fully grouted with neat cement grout; a data logger will be used to monitor groundwater levels during the wet, winter months.

The drilling will be subcontracted to Western States Soil Conservation, Inc. of Aurora, Oregon, who is experienced in drilling and sampling soil and rock for engineering purposes. The drilling and sampling will be accomplished under the direction of an experienced geotechnical engineer or engineering geologist from GRI who will maintain a detailed log of the materials and conditions uncovered

during the course of the work. The boring will be backfilled in accordance with Oregon Water Resources Department rules and regulations. The slope inclinometer casing will be protected at the ground surface using a traffic-rated flush-mounted metal monument backfilled with fast-setting concrete. We assume traffic control will not be required during drilling of the boring.

- b) Laboratory tests will be conducted to provide data on the important physical characteristics of the soils and rock, essential for engineering studies and analyses. The laboratory tests will include standard classification tests, such as natural water content, Atterberg limits, unconfined compression tests, and unit weight determinations, as well as strength testing. All testing will be performed in substantial conformance with applicable ASTM standards.
- 2) **Design.** GRI will complete the engineering analysis and final design for the rock buttress. A slope stability analysis will be conducted using Slope/W software to assist in design of the rock buttress. A report will be provided that describes the work accomplished, including CAD drawings showing the plan view and cross section of the final rock buttress geometry at the critical section or deepest portion of the slope failure.

This scope includes preparation of a final design bid package with plans and specifications for bidding and all calculations desired by the City. GRI has requested OBEC Consulting Engineers continue services on the project and provide cost estimates for civil and structural engineering services, including plan preparation, structural detailing, bid package compilation, and construction support. The costs for OBEC's services are included in this proposal.

- 3) **Inclinometer Monitoring.** GRI will record slope movements in the inclinometer installation before and after construction of the slope repair. We assume up to four sets of slope measurements will be obtained. The results of the slope monitoring will be provided graphically to the City as the results become available and will be used to evaluate whether slope movements have ceased following construction of the buttress, or if more extensive mitigation will be necessary, such as tied-back anchored walls behind the rock buttress.
- 4) **Construction Support.** GRI/OBEC will review all City-accepted bids and evaluate whether the contractors' bids are responsible. GRI/OBEC will visit the site as necessary to evaluate whether construction of the repair is in substantial conformance with the engineering plans and specifications. We will distribute site visit reports and as-built drawings to the City.

Schedule

We are in a position to begin work on this project within 1 week following your authorization to proceed. A drill rig is currently scheduled for drilling in Brookings the week of January 28 or February 4, for local county landslide repair projects, and we have allotted time to perform the field subsurface investigation and drilling for the Beach Avenue Lift Station project during this same week to save mobilization costs. It



is anticipated that we can complete the geotechnical investigation and final report, final buttress design, and provide project plans and specifications to the City within 6 to 8 weeks after completion of drilling, or no later than March 27, 2013. The GRI and OBEC team will accelerate the schedule wherever opportunities exist. Information can be submitted informally as soon as it becomes available. We anticipate the City will require seven business days to review the plans, and provided no changes are necessary, can issue a bid notice by April 8, 2013.

Fee

We anticipate our services will be provided on a time-and-expenses basis in accordance with the City's standard agreement for consulting services and the attached Fee Schedule. It is acknowledged the total cost of our services for this phase of the work is difficult to estimate; however, based on the above-described scope of work and our experience with similar projects, we recommend that you budget \$45,250 for design and construction support services provided by GRI/OBEC. This amount will not be exceeded without your prior approval. Our estimated fee is summarized below.

1) Geological/Geotechnical Investigation, Laboratory Analysis, and Report

GRI	\$ 5,640
Drilling Subcontractor	<u>9,435 *</u>
Subtotal:	\$ 15,075

* (driller's estimate received 1/10/13; includes mobilization, vibrating-wire piezometer and slope inclinometer installation)

2) Final Design of Rock Buttress (with Bid Package, Plans and Specifications)

GRI	\$ 4,520
OBEC Consulting Engineers (received estimate 1/17/13)	<u>11,430</u>
Subtotal:	\$ 15,950

3) Slope Inclinometer Monitoring

GRI (four data sets)	\$ 2,800
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4) Construction Support Services

GRI	\$ 8,400
OBEC	<u>3,025</u>
Subtotal:	\$ 11,425

Estimated Total: \$ 45,250

A preliminary engineer's estimate for cost of construction will be provided separately and is not part of this proposal.

We appreciate the opportunity to be of continued service to you on this project. Please contact the undersigned if you have any questions regarding this proposal.



Submitted for GRI,



Christopher K. Ell, PE, GE
Senior Engineer

Enclosed: GRI Fee Schedule



George A. Freitag, CEG
Associate

GRI
Brookings, Oregon

2013 FEE SCHEDULE

Personnel	Rate/Hour
Principal	\$ 185
Associate	\$ 170
Senior Engineer/Geologist	\$ 140
Project Engineer/Geologist	\$ 125
Staff Engineer/Scientist	\$ 95
Engineering Assistant	\$ 65
Contract Administrator	\$ 95
Drafter	\$ 85
Secretarial Services	\$ 55

Other Charges

Vehicle:	Vehicles will be billed at the current IRS business mileage reimbursement rate.
Fill Control Equipment:	Nuclear Density Gage rental will be billed at \$5 per hour, with maximum charge of \$25 per day or \$125 per week.
Reproduction:	In-house reproduction, \$0.10 per sheet.
Field Instrumentation and Monitoring Equipment:	Due to varied conditions, equipment requirements, location and use, rates for field instrumentation, monitoring, and other specialized equipment will be provided as required.
Subcontractor Services:	Charges for subcontractor services will be computed at cost plus 10%.
Travel and Subsistence:	All charges related to travel and subsistence will be computed at cost plus 10%.

(LAST REVISED 5/30/12)






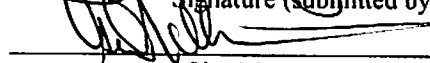
CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: January 28, 2013

Originating Dept: ASD



Signature (submitted by)


City Manager Approval

Subject:

Audit Report for the fiscal year ended June 30, 2012

Recommended Motion:

Motion to accept the City's Audit for the fiscal year ended June 30, 2012.

Financial Impact:

None.

Background/Discussion:

Boldt, Carlisle & Smith LLC has completed the City's audit for the fiscal year ending June 30, 2012. A copy of the audit report and a copy of the "communications letter" were mailed directly from the audit firm to the City Council.

A budget workshop was held January 22, 2013 to discuss the Audit and related issues with the Auditor.

CITY COUNCIL MINUTES

Monday, January 14, 2013

City Hall Council Chambers, 898 Elk Drive, Brookings, OR 97415

Call to Order

Mayor Hedenskog called the meeting to order at 7:00pm.

Swearing in of Mayor and Council Positions 1 and 2

Judge Harper swore in Councilor Bill Hamilton, Councilor Brent Hodges and Mayor Ron Hedenskog.

Roll Call

Council Present: Mayor Ron Hedenskog, Councilors Bill Hamilton, Brent Hodges, Jake Pieper and Kelly McClain; a quorum present.

Staff Present: City Manager Gary Milliman, Finance & Human Resources Director Janell Howard, Public Works & Development Director Loree Pryce, Public Safety Director Chris Wallace, City Attorney Martha Rice, Judge Richard Harper, Planning Manager Donna Colby-Hanks, Parks & Tech Services Supervisor Tony Baron and City Recorder Joyce Heffington.

Others Present: Pilot Reporter Jane Stebbins and approximately 21 others

Ceremonies/Appointments/Announcements

Councilor Hodges moved, a second followed and Council voted unanimously to reappoint Jake Pieper as Council President.

Director Wallace introduced new Public Safety employees, Fire Captain Jeff Lee, Police Officer Zane VanZelf and Police Officer Gavin McVay.

Councilor Pieper moved, a second followed and Council voted unanimously to reappoint Destiny Schwartz to the Public Art Committee.

Public Hearings/Ordinances/Resolutions/Final Orders

Appointment to the Border Coast Regional Airport Authority Board of Commissioners.

City Manager Milliman provided the staff report.

Councilor Pieper moved, a second followed and Council voted unanimously to adopt Resolution 13-R-994, [appointing George Rhodes as City representative to the Border Coast Regional Airport Authority].

Resolution 13-R-995 regarding the use of force in respect to civil rights demonstrations.

City Manager Milliman gave the staff report.

Mayor Hedenskog moved, a second followed and Council voted unanimously to adopt Resolution 13-R-995 [regarding the use of force in respect to civil rights demonstrations].

LightSpeed Networks (LSN) Inc franchise for telephone service purposes.

City Manager Milliman gave the staff report and an LSN representative provided a brief overview of services to be provided.

Councilor Pieper moved, a second followed, and Council voted unanimously to read Ordinance 13-O-706 the first time by title only.

Mayor Hedenskog read the title.

Councilor Pieper moved, a second followed, and Council voted unanimously to read Ordinance 13-O-706 the second time by title only.

Mayor Hedenskog read the title.

Councilor Pieper moved, a second followed, and Council voted unanimously to adopt Ordinance 13-O-706 [granting LightSpeed Networks (LSN) Inc, a franchise for telephone service purposes with the City of Brookings].

Public Comments

Cam Lynn, Brookings, spoke against the proposed ban of vehicles crossing the Chetco River calling it a "senseless rule."

Councilor Pieper said he would like to hold a meeting to discuss the possibility of adopting a resolution or position paper against the ban before the deadline.

Mayor Hedenskog asked if this could be handled at this meeting and City Attorney Rice said it would be best to hold a special meeting as it was not "agendized" and is not an emergency.

Mayor Hedenskog asked staff to verify the time and process for submitting comments and then get back to Council.

Carolyn Milliman, Brookings, honored her husband, City Manager Milliman, who celebrated 40 years in City government the previous week; Director Pryce joined her in thanking Milliman for his service.

Committee Reports

Planning Commissioner Hedda Markham presented the annual Planning Commission Report.

Mayor Hedenskog moved, a second followed and Council voted unanimously to accept the annual Planning Commission Report.

Staff Reports

Committee for Citizen Involvement (CCI) annual report.

Manager Colby-Hanks reviewed the staff report.

Councilor Pieper moved, a second followed, and Council voted unanimously to accept the annual Committee for Citizen Involvement annual report for 2012 and direct staff to forward the report to the County Planning Coordinator and State's Citizen Involvement Advisory Committee as required by Resolution #399.

Approval of Memorandum of Understanding (MOU) with Azalea Park Foundation.

Supervisor Baron gave the staff report.

Mayor Hedenskog asked if the Foundation could report to Council from time to time on improvements and Baron said he would ask.

Councilor McClain moved, a second followed and Council voted unanimously to authorize the Mayor to execute the Memorandum of Understanding with the Azalea Park Foundation with regards to the maintenance of Azalea Park.

Installation of backflow prevention devices on properties subject to surcharged sewer mains.

City Manager Milliman provided the staff report.

Mayor Hedenskog provided background and said the City's surcharged sewer lines were causing the problems and he suggested that the City buy backwater devices for the effected property owners to install.

Councilor Hodges said he thought fixing the sewer lines was the best option and Mayor Hedenskog said that would be a long term solution but would do nothing for the short term.

Councilor Pieper asked if staff believed "in the theoretical policy" that the City should be responsible for installing devices on effected properties and Milliman said that staff was not making that recommendation.

Director Pryce said these issues can be caused by a number of problems and she would hate to have staff responsible for maintaining the devices in perpetuity when an issue might not be related to inflow and infiltration (I & I). If the City were to provide these devices she suggested that recipients be asked to sign an agreement making it clear that the City is not responsible for maintenance. She said owners can install these devices now.

Councilor Pieper asked if the devices could be installed on the City side and Pryce said she had never seen a City do this.

Councilor McClain said he didn't think giving out backwater devices was the right way to resolve the issues and thought that the City should concentrate on resizing the pipes.

Councilor Hamilton said in his experience it was the owner's responsibility to install and maintains these devices and thought that providing the devices could be problematic.

Councilor Hodges asked if requiring these devices was part of the plan check and Pryce said she was not sure how this was handled.

Mayor Hedenskog asked Milliman to explain what happens when someone experiences sewer backflow issues and Milliman said property owners would be advised to refer the matter to their insurance adjuster and whether they would have a claim would depend on if the owner should have installed a device. The City, he said, had seen very few claims in this area.

Director Howard said a July claim had pointed out the need for the City to have a regular cleaning program to reduce it's liability and there had been two recent claims.

Mayor Hedenskog said that someone could make a claim this week and have it happen again the next week and place another claim.

Director Howard said that, if the City resolved the issue, it would be unlikely to be held responsible for a second claim in the next week if a major rain event caused a surcharge.

Councilor Pieper said that at the same workshop where this issue was discussed, Council had also discussed a Municipal Code revision to allow the City to enforce a new state law requiring homeowners to put backflow devices on their water systems to protect the City's water system from contamination. "The government," he said, "gets to stand back and say it's not

our fault and yet pass laws to make all the responsibility land on the homeowners." Pieper said the City should accept some of the responsibility when a sewer backs up through no fault of the homeowner's and he was willing to come up with a backwater installation program for properties experiencing these issues.

Councilor McClain said I & I events were not necessarily the City's fault but there was no excuse for a surcharged system. If an event were the City's fault it should be fixed, he said, but he hoped the City would not be "opening up a can of worms" by providing backwater devices which, if they failed, might become the City's responsibility. McClain said he would prefer to focus on why the sewer lines are surcharging.

Councilor Hamilton related a similar, 1996 issue with the condo his mother lived in. At that time, he said, it was determined that the owner had failed to install the City-required backwater device. The owner claimed he thought the City was supposed to install it and the City ended up agreeing to pay damages, if the property owner installed the device.

Councilor Hodges said it probably wasn't possible to build a system to handle every problem associated with a huge rain event and that someone living in a low lying place for any length of time should know they may have issues and install a backwater device to deal with it, but the line upstream should be looked at and fixed. Hodges also said he disagreed "somewhat" with Pieper regarding the water backflow device requirement. "My thought," Hodges said, "is we are bringing potable water from our system onto a private property and then what they do with it on that private property we don't want it to get back into the City's water."

Director Pryce said the sewer back-up issue experienced by the resident at the last meeting was caused by a sewer block on private property; it was not in the City's main nor was it a result of the high rain event.

Mayor Hedenskog said that if a homeowner experienced a back-up and it wasn't their fault, the City should at least inform the homeowner to install a backwater device. He also said he would like staff to come up with costs and a couple of proposals on how to handle this issue.

Mayor Hedenskog moved, Councilor Pieper seconded and the motion passed, 4 -1, with Mayor Hedenskog and Councilors Pieper, Hodges and Hamilton voting "Yes," and Councilor McClain voting "No," to ask staff to come up with a report indicating finances [and] plans and bring it back to the Council at future date.

Proposal for financing storm damage repair and mitigation to include a System Replacement Fee (SRF) increase and bond measure on the November 2013 ballot.

City Manager Milliman provided the staff report.

Councilor Pieper asked if the Beach Lift Station restoration would replace the rented equipment and Milliman said it would.

Director Pryce said that the earth at that location was continuing to deteriorate, but repair costs were less than originally anticipated. Milliman added that if the project costs were reduced the rate would also be reduced.

Pieper asked if SRF funds would be enough to repair the lift station and if anything on list besides the Beach Lift Station would "reasonably need" to be completed before next winter. Milliman said there were sufficient funds to do the lift station repair but they would have to be

taken from I & I projects just discussed by Council and that there really wasn't anything on the list that wasn't needed.

Councilor Hodges asked if the City Hall and Clinic system drainage ditch consolidation was related to last year's sink hole issue and Milliman said it referred to two ditches that come together behind City Hall and during high rain events, flow into the Police station.

Hodges asked about alternate options for the Beach Lift Station and Pryce said they had, but there really was no choice except to rebuild. "You can't leave it the way it is," she said. The hillside needs to be stabilized and the proposed design would be a long term solution at half the cost of the original design.

Councilor McClain asked about the degree of confidence in this plan and Pryce said the geotechnical consultant felt confident it could be stabilized. McClain suggested that it might be a good idea to have a spare pump on hand to avoid the high cost of renting pumps if the cost wasn't too high. Pryce said that was a good point.

Councilor Hamilton asked if there was any concern that the pump and the electrical panel might fail after being reestablished and Pryce said they didn't anticipate any problems; the panel is working and the pump doesn't appear to have been damaged.

Mayor Hedenskog asked, should a bond measure pass, if the SRF balance would get rolled into the bond measure. Milliman said the remaining balance of the interim funding would be rolled over and then the full amount would be financed.

Councilor Pieper said he expected to see another request for a rate increase in this budget cycle to cover the SDC gap, and the proposed increase would be on top of that. Pieper said he didn't doubt that these projects needed to be done and he was ready to move ahead to increase SRF's, but wanted to hold off on the measure until Council began 2013-14 budget discussions.

Mayor Hedenskog said Council would not be doing its due diligence if it failed to act on these issues and he was for increasing SRF's now and then deciding on the measure later.

McClain asked about the timing of the SRF fee increase and Director Howard said the bank would need a resolution and she thought that could be done within the month. McClain then asked when Council would need to decide about the bond for the November ballot and Milliman said it would probably take about 3 or 4 months to meet the legal requirements. However, Milliman said, according to conventional wisdom and experience, it takes 12 -18 months to do a public information campaign; the shorter the timeline, the less likely the measure will be passed.

Howard said it would be a year after a bond measure passed before City would see funds.

McClain said the City had to pay for this somehow and he didn't want to take too long to make a decision.

Councilor Pieper said the tough decision was increasing fees since people don't get to vote on that and the problem he would have with the bond measure was that there was no way to promise that fees would go back down.

Councilor McClain moved, a second followed and Council voted unanimously to approve the staff proposal for financing storm damage repair and mitigation to include an increase in System Replacement Fees not to exceed \$2.35 per month.

Discussion and direction regarding City Council liaison appointments.

City Manager Milliman provided the staff report.

Councilor Pieper said that participation in these organizations and agencies should be up to the Council member's discretion and that if the Mayor finds something important he can bring it to the Council's attention and Council can act on it at that time. Councilor Hodges said he agreed.

Mayor Hedenskog said if Councilors are interested in attending a particular meeting, they can, but it would not be required.

Consent Calendar

- a. Approve City Council Minutes for December 10, 2012.
- b. Approve Liquor License Application for Tight Line Brewery, 625 Chetco Ave.
- c. Approve Azalea Festival Request from Chamber of Commerce.
- d. Accept Planning Minutes for November 6, 2012.
- e. Accept Parks and Recreation Minutes for September 27, 2012.
- f. Accept December 2012 Vouchers in the amount of \$387,059.73.
- g. Accept November 2012 Financial Report.

Councilor Pieper moved, a second followed and Council voted unanimously to approve the Consent Calendar as written.

Adjournment

Councilor Hodges moved, a second followed and Council voted unanimously by voice vote to adjourn at 9:22pm.

ATTESTED:

Respectfully submitted:

this _____ day of _____ 2013:

Ron Hedenskog, Mayor


Joyce Heffington, City Recorder

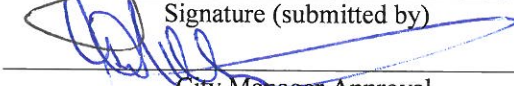
CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: January 28, 2013

Originating Dept: PW/DS



Signature (submitted by)


City Manager Approval

Subject: Chetco River Monitoring Agreement with USGS

Recommended Motion: Authorize the City Manager to execute a 1-year contract with USGS to continue recording water levels for the Chetco River.

Financial Impact: The annual cost for the fiscal year 2013-14 is \$9,486, which historical has been paid by the City of Brookings and reimbursed proportionately by the following agencies; US Forest Service (12.5%), Cal-Ore Enhancement (12.5%), Harbor Water PUD (25%), and the Port of Brookings Harbor (25%). If these agencies continue to cooperate with contributing, the balance paid by the City of Brookings will be \$2,371.50 from the water system contract services budget.

Background/Discussion: The City has historically paid the USGS annually to provide river monitoring services which historically was matched 50% with federal funds. This year the City was presented with a 5-year contract from USGS which indicated that due to budget cut backs, USGS would not be able to secure a 50% federal match for future years. USGS encouraged the City to enter into a 5-year contract which outlines the federal match for the next five years.

Staff is not recommending the 5-year contract at this time for several reasons. It is unclear why the City is the only party listed on the Agreement when there are many more businesses benefiting from the river monitoring data that becomes available free on-line. USGS indicated they are not in the business of doing accounting and would only consider an agreement with one agency. Staff recommends prior to next year's contract renewal, establishing a more comprehensive payment plan and agreement(s) to include parties such as the downstream rock quarry businesses, fishing services, or other parties benefiting from the data.

Staff researched other options to provide river monitoring services and there are other options such as DEQ. USGS is a little higher annually for the service, but any new service provider would have to construct a new river gauge station which has an upfront cost.

The City's water treatment plant draws groundwater from the Chetco River but staff was unable to find any regulatory agency requiring the City to monitor the river levels.

Policy Considerations: None

Attachment(s):

- a. Agreement



United States Department of the Interior

U.S. GEOLOGICAL SURVEY

Oregon Water Science Center

2130 SW 5th Avenue

Portland, OR 97201

(503) 251-3220 • Fax: (503) 251-3470

<http://or.water.usgs.gov/>

December 18, 2012

Loree Pryce, Public Works Development Services Director
City of Brookings
898 Elk Drive
Brookings, OR 97415

Dear Ms. Pryce

This letter and Joint Funding Agreement (JFA) replaces earlier letter and JFA sent on July 13, 2012 concerning our continuing cooperative data collection program on the Chetco River near Brookings for Federal fiscal year 2013 (October 1, 2012 to September 30, 2013). The cost to continue the operation and maintenance of the gaging station on the Chetco River for Federal fiscal year 2013 will be \$18,600. The City of Brookings share is \$9,486. The U.S. Geological Survey will match this amount with \$9,114 of Federal matching funds.

Beginning in 2013 the USGS can no longer provide a 50/50 match on the total cost due to an overall reduction in FMF's, which includes a change of business practice where certain Bureau assessments that used to be part of the allocation are now being kept at the Bureau level.

Attached are two original copies of a JFA to confirm our negotiations to continue this data collection program. Please sign both originals; return one signed original in the enclosed self-addressed envelope and retain the other original for your records.

We highly recommend entering into a 5-year agreement for this program. By doing so we could avoid the annual paper chase, allow you to budget further into the future and lock into an agreed price structure. In order to lock the gradual glide change in the 50/50 pricing structure in 2014 a 5 year agreement would be the best approach. This would also help us increase our efficiency, thereby minimizing our administrative costs. If you are interested in a multi-year agreement, please let us know and we will send you a JFA ranging from 2 to 5 years. Multi-year agreements can be amended as needed to meet changes in program needs and/or funding levels. Below are the total costs for this program projected out to 2017 for your reference. Note: As we discussed previously we will work to determine if NSIP funds will be available to pay a portion of the cost starting in 2014, if so that would lower the cost to the City of Brookings.

Ms. Pryce

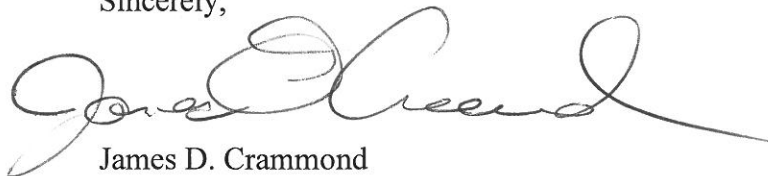
Federal Fiscal Year	City of Brookings	USGS Federal Match	Total Cost
2013	9,486	9,114	\$18,600
2014	10,171	9,389	\$19,560
2015	10,907	9,673	\$20,580
2016	11,664	9,936	\$21,600
2017	12,474	10,206	\$22,680

In order to continue providing data and/or investigations for your agency, we will need to have the enclosed JFA signed and received in this office **no later than January 18, 2013**. Funds are not required at this time; a signed agreement is not a bill, only an agreement to pay for the work that will be done. The Water Resources Cooperative Program operates under the authority of statute 43 USC 50 which allows us to perform this work. The Oregon Water Science Center DUNS number is 137883463. Billing will be by DI-1040. Final billing for Federal fiscal year 2013 will occur near the middle of July 2013.

Work performed with funds from this agreement will be conducted on a fixed-price basis. The results of all work under this agreement will be available for publication by the U.S. Geological Survey.

We look forward to continuing our successful relationship during the upcoming year. If you have any questions concerning this letter or the data program in general, please feel free to contact Keith Overton at (503) 251-3246.

Sincerely,



James D. Crammond
Center Director

Enclosures - 2 JFA's w/return envelope

Cc (w/o enclosures): Ms. Patti Dunn, Administrative Services Director, City of Brookings 898 Elk Drive, Brookings, OR 97415

cc: Dar Crammond
Mary Burbank
Steve Winkler
Marc Stewart
Keith Overton

CITY OF BROOKINGS
FUND SUMMARY
FOR THE 6 MONTHS ENDING DECEMBER 31, 2012

GENERAL FUND

	BUDGET	PERIOD ACTUAL	YTD ACTUAL	REMAINING BUDGET	PCNT
<u>REVENUE</u>					
TAXES	2,537,268.00	8,969.44	202,344.97	2,334,923.03	8.0
LICENSES AND PERMITS	94,500.00	7,600.75	41,561.26	52,938.74	44.0
INTERGOVERNMENTAL	589,500.00	30,400.06	88,314.67	501,185.33	15.0
CHARGES FOR SERVICES	177,500.00	36,131.49	78,563.26	98,936.74	44.3
OTHER REVENUE	86,000.00	21,879.59	51,958.94	34,041.06	60.4
TRANSFERS IN	193,929.00	.00	.00	193,929.00	.0
	3,678,697.00	104,981.33	462,743.10	3,215,953.90	12.6
<u>EXPENDITURES</u>					
JUDICIAL:					
PERSONAL SERVICES	14,048.00	1,119.05	5,439.07	8,608.93	38.7
MATERIAL AND SERVICES	8,300.00	321.99	2,056.20	6,243.80	24.8
CAPITAL OUTLAY	2,000.00	.00	.00	2,000.00	.0
	24,348.00	1,441.04	7,495.27	16,852.73	30.8
LEGISLATIVE/ADMINISTRATION:					
PERSONAL SERVICES	158,373.00	12,745.18	93,066.73	65,306.27	58.8
MATERIAL AND SERVICES	81,800.00	6,418.18	55,675.79	26,124.21	68.1
CAPITAL OUTLAY	.00	.00	.00	.00	.0
	240,173.00	19,163.36	148,742.52	91,430.48	61.9
POLICE:					
PERSONAL SERVICES	1,779,367.00	143,940.80	886,969.97	892,397.03	49.9
MATERIAL AND SERVICES	150,740.00	10,436.05	60,789.83	89,950.17	40.3
CAPITAL OUTLAY	401,100.00	22,421.75	247,395.26	153,704.74	61.7
TRANSFERS OUT	15,000.00	.00	.00	15,000.00	.0
	2,346,207.00	176,798.60	1,195,155.06	1,151,051.94	50.9
FIRE:					
PERSONAL SERVICES	168,625.00	11,241.06	86,574.29	82,050.71	51.3
MATERIAL AND SERVICES	122,500.00	4,235.69	32,207.97	90,292.03	26.3
CAPITAL OUTLAY	79,580.00	.00	30,579.01	49,000.99	38.4
TRANSFERS OUT	.00	.00	.00	.00	.0
	370,705.00	15,476.75	149,361.27	221,343.73	40.3
PLANNING AND BUILDING:					
PERSONAL SERVICES	191,352.00	14,615.83	93,098.19	98,253.81	48.7
MATERIAL AND SERVICES	66,000.00	90.75	6,966.30	59,033.70	10.6
CAPITAL OUTLAY	.00	.00	.00	.00	.0
TRANSFERS OUT	.00	.00	.00	.00	.0
	257,352.00	14,706.58	100,064.49	157,287.51	38.9

CITY OF BROOKINGS
FUND SUMMARY
FOR THE 6 MONTHS ENDING DECEMBER 31, 2012

GENERAL FUND

	BUDGET	PERIOD ACTUAL	YTD ACTUAL	REMAINING BUDGET	PCNT
PARKS & RECREATION:					
PERSONAL SERVICES	54,854.00	13,603.78	73,543.01	(18,689.01)	134.1
MATERIAL AND SERVICES	78,900.00	4,046.19	33,174.00	45,726.00	42.1
CAPITAL OUTLAY	10,000.00	.00	1,731.99	8,268.01	17.3
TRANSFERS OUT	.00	.00	.00	.00	.0
	143,754.00	17,649.97	108,449.00	35,305.00	75.4
ADMINISTRATIVE SERVICES:					
PERSONAL SERVICES	114,228.00	11,406.98	94,246.39	19,981.61	82.5
MATERIAL AND SERVICES	32,600.00	1,764.56	13,565.97	19,034.03	41.6
CAPITAL OUTLAY	.00	.00	.00	.00	.0
	146,828.00	13,171.54	107,812.36	39,015.64	73.4
SWIMMING POOL:					
PERSONAL SERVICES	56,449.00	.00	40,248.53	16,200.47	71.3
MATERIAL AND SERVICES	41,180.00	854.16	23,258.14	17,921.86	56.5
CAPITAL OUTLAY	10,000.00	.00	3,879.02	6,120.98	38.8
	107,629.00	854.16	67,385.69	40,243.31	62.6
NON-DEPARTMENTAL:					
MATERIAL AND SERVICES	157,500.00	8,304.71	34,298.68	123,201.32	21.8
CAPITAL OUTLAY	.00	.00	.00	.00	.0
TRANSFERS OUT	67,000.00	.00	.00	67,000.00	.0
CONTINGENCIES AND RESERVES	690,201.00	.00	.00	690,201.00	.0
	914,701.00	8,304.71	34,298.68	880,402.32	3.8
	4,551,697.00	267,566.71	1,918,764.34	2,632,932.66	42.2
	(873,000.00)	(162,585.38)	(1,456,021.24)	583,021.24	(166.8)

CITY OF BROOKINGS
FUND SUMMARY
FOR THE 6 MONTHS ENDING DECEMBER 31, 2012

STREET FUND

	BUDGET	PERIOD ACTUAL	YTD ACTUAL	REMAINING BUDGET	PCNT
<u>REVENUE</u>					
INTERGOVERNMENTAL	510,000.00	30,576.12	180,205.98	329,794.02	35.3
OTHER REVENUE	300.00	80.00	340.24	(40.24)	113.4
TRANSFER IN	.00	.00	.00	.00	.0
	<u>510,300.00</u>	<u>30,656.12</u>	<u>180,546.22</u>	<u>329,753.78</u>	<u>35.4</u>
<u>EXPENDITURES</u>					
EXPENDITURES:					
PERSONAL SERVICES	121,992.00	10,672.77	55,395.95	66,596.05	45.4
MATERIAL AND SERVICES	195,600.00	2,676.72	40,708.43	154,891.57	20.8
CAPITAL OUTLAY	208,300.00	2,762.10	63,806.64	144,493.36	30.6
TRANSFERS OUT	24,610.00	.00	.00	24,610.00	.0
CONTINGENCIES AND RESERVES	65,798.00	.00	.00	65,798.00	.0
	<u>616,300.00</u>	<u>16,111.59</u>	<u>159,911.02</u>	<u>456,388.98</u>	<u>26.0</u>
	<u>616,300.00</u>	<u>16,111.59</u>	<u>159,911.02</u>	<u>456,388.98</u>	<u>26.0</u>
	<u>(106,000.00)</u>	<u>14,544.53</u>	<u>20,635.20</u>	<u>(126,635.20)</u>	<u>19.5</u>

CITY OF BROOKINGS
FUND SUMMARY
FOR THE 6 MONTHS ENDING DECEMBER 31, 2012

WATER FUND

	BUDGET	PERIOD ACTUAL	YTD ACTUAL	REMAINING BUDGET	PCNT
<u>REVENUE</u>					
SOURCE 03	.00	.00	.00	.00	.0
CHARGES FOR SERVICES	1,395,000.00	86,000.97	708,659.95	686,340.05	50.8
OTHER INCOME	2,000.00	4,306.40	28,595.33	(26,595.33)	1429.8
TRANSFERS IN	.00	.00	.00	.00	.0
	<u>1,397,000.00</u>	<u>90,307.37</u>	<u>737,255.28</u>	<u>659,744.72</u>	<u>52.8</u>

EXPENDITURES

WATER DISTRIBUTION:

PERSONAL SERVICES	596,281.00	40,588.80	258,604.02	337,676.98	43.4
MATERIAL AND SERVICES	325,250.00	17,815.57	184,249.50	141,000.50	56.7
CAPITAL OUTLAY	68,300.00	4,819.44	12,759.42	55,540.58	18.7
	<u>989,831.00</u>	<u>63,223.81</u>	<u>455,612.94</u>	<u>534,218.06</u>	<u>46.0</u>

WATER TREATMENT:

PERSONAL SERVICES	.00	.00	.00	.00	.0
MATERIAL AND SERVICES	.00	.00	.00	.00	.0
CAPITAL OUTLAY	.00	.00	.00	.00	.0
TRANSFERS OUT	379,002.00	.00	.00	379,002.00	.0
CONTINGENCIES AND RESERVES	138,667.00	.00	.00	138,667.00	.0
	<u>517,669.00</u>	<u>.00</u>	<u>.00</u>	<u>517,669.00</u>	<u>.0</u>

DEPARTMENT 24:

CAPITAL OUTLAY	.00	.00	.00	.00	.0
	<u>.00</u>	<u>.00</u>	<u>.00</u>	<u>.00</u>	<u>.0</u>
	<u>1,507,500.00</u>	<u>63,223.81</u>	<u>455,612.94</u>	<u>1,051,887.06</u>	<u>30.2</u>
	<u>(110,500.00)</u>	<u>27,083.56</u>	<u>281,642.34</u>	<u>(392,142.34)</u>	<u>254.9</u>

CITY OF BROOKINGS
FUND SUMMARY
FOR THE 6 MONTHS ENDING DECEMBER 31, 2012

WASTEWATER FUND

	BUDGET	PERIOD ACTUAL	YTD ACTUAL	REMAINING BUDGET	PCNT
<u>REVENUE</u>					
CHARGES FOR SERVICES	2,650,500.00	218,580.40	1,335,605.47	1,314,894.53	50.4
OTHER REVENUE	3,000.00	770.00	420,279.18	(417,279.18)	14009.
TRANSFER IN	.00	.00	.00	.00	.0
	<u>2,653,500.00</u>	<u>219,350.40</u>	<u>1,755,884.65</u>	<u>897,615.35</u>	<u>66.2</u>
<u>EXPENDITURES</u>					
WASTEWATER COLLECTION:					
PERSONAL SERVICES	426,141.00	37,419.43	219,451.60	206,689.40	51.5
MATERIAL AND SERVICES	250,100.00	6,022.90	71,475.04	178,624.96	28.6
CAPITAL OUTLAY	24,900.00	.00	2,384.49	22,515.51	9.6
	<u>701,141.00</u>	<u>43,442.33</u>	<u>293,311.13</u>	<u>407,829.87</u>	<u>41.8</u>
WASTEWATER TREATMENT:					
PERSONAL SERVICES	436,275.00	30,149.46	192,287.13	243,987.87	44.1
MATERIAL AND SERVICES	466,600.00	30,131.30	211,972.44	254,627.56	45.4
CAPITAL OUTLAY	302,400.00	.00	46,878.58	255,521.42	15.5
TRANSFERS OUT	1,075,705.00	.00	.00	1,075,705.00	.0
CONTINGENCIES AND RESERVES	239,379.00	.00	.00	239,379.00	.0
	<u>2,520,359.00</u>	<u>60,280.76</u>	<u>451,138.15</u>	<u>2,069,220.85</u>	<u>17.9</u>
	<u>3,221,500.00</u>	<u>103,723.09</u>	<u>744,449.28</u>	<u>2,477,050.72</u>	<u>23.1</u>
	<u>(568,000.00)</u>	<u>115,627.31</u>	<u>1,011,435.37</u>	<u>(1,579,435.37)</u>	<u>178.1</u>

CITY OF BROOKINGS
FUND SUMMARY
FOR THE 6 MONTHS ENDING DECEMBER 31, 2012

URBAN RENEWAL AGENCY FUND

	BUDGET	PERIOD ACTUAL	YTD ACTUAL	REMAINING BUDGET	PCNT
<u>REVENUE</u>					
TAXES	509,838.00	.00	13,191.91	496,646.09	2.6
INTERGOVERNMENTAL	.00	.00	.00	.00	.0
OTHER REVENUE	1,000,500.00	.00	329.05	1,000,170.95	.0
	<u>1,510,338.00</u>	<u>.00</u>	<u>13,520.96</u>	<u>1,496,817.04</u>	<u>.9</u>
<u>EXPENDITURES</u>					
GENERAL:					
PERSONAL SERVICES	.00	.00	.00	.00	.0
MATERIAL AND SERVICES	70,000.00	6,237.03	11,977.22	58,022.78	17.1
CAPITAL OUTLAY	1,372,397.00	.00	.00	1,372,397.00	.0
DEBT SERVICE	.00	.00	.00	.00	.0
TRANSFERS OUT	417,941.00	.00	.00	417,941.00	.0
CONTINGENCIES AND RESERVES	.00	.00	.00	.00	.0
	<u>1,860,338.00</u>	<u>6,237.03</u>	<u>11,977.22</u>	<u>1,848,360.78</u>	<u>.6</u>
DEPARTMENT 20:					
CAPITAL OUTLAY	.00	.00	.00	.00	.0
	<u>.00</u>	<u>.00</u>	<u>.00</u>	<u>.00</u>	<u>.0</u>
DEPARTMENT 22:					
MATERIAL AND SERVICES	.00	.00	.00	.00	.0
DEBT SERVICE	.00	.00	.00	.00	.0
	<u>.00</u>	<u>.00</u>	<u>.00</u>	<u>.00</u>	<u>.0</u>
DEPARTMENT 24:					
CONTINGENCIES AND RESERVES	.00	.00	.00	.00	.0
	<u>.00</u>	<u>.00</u>	<u>.00</u>	<u>.00</u>	<u>.0</u>
	<u>1,860,338.00</u>	<u>6,237.03</u>	<u>11,977.22</u>	<u>1,848,360.78</u>	<u>.6</u>
	<u>(350,000.00)</u>	<u>(6,237.03)</u>	<u>1,543.74</u>	<u>(351,543.74)</u>	<u>.4</u>

URBAN RENEWAL AGENCY Minutes

City Hall Council Chambers, 898 Elk Drive, Brookings, OR 97415
Tuesday, November 13, 2012

Call to Order

Director Pieper presided and called the meeting to order at 7:34pm.

Roll Call

Agency Present: Chair Ron Hedenskog, Directors Dave Gordon, Jake Pieper, Brent Hodges and Kelly McClain; a quorum present.

Staff Present: Executive Director Gary Milliman, Finance & HR Director Janell Howard and City Recorder Joyce Heffington.

Others Present: Pilot Reporter Jane Stebbins and approximately 2 others.

Consent Calendar

a. Approve Agency Meeting Minutes for May 29, 2012

Director Hodges moved, a second followed and the Agency voted unanimously to approve the Consent Calendar as written.

Staff Reports

Authorization to pay Conditional Use Permit for proposed Tight Lines Brewery.

Director Gordon moved, a second followed and the Agency voted unanimously to authorize payment of the Conditional Use Permit Application Fee for the proposed Tight Line Brewery at 625 Chetco Avenue in the amount of \$2,574.

Adjournment

Chair Hedenskog moved, a second followed and the Agency voted unanimously by voice vote to adjourn at 7:42pm.

ATTESTED:

Respectfully submitted:

this _____ day of _____ 2012:

Ron Hedenskog, Chair

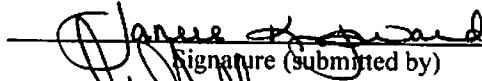
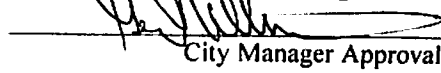
Joyce Heffington, City Recorder

BROOKINGS URBAN RENEWAL AGENCY

COUNCIL AGENDA REPORT

Meeting Date: January 28, 2013

Originating Dept: ASD


Signature (submitted by)

City Manager Approval

Subject:

Audit Report for the fiscal year ended June 30, 2012.

Recommended Motion:

Motion to accept the Brookings Urban Renewal Agency's Audit for the fiscal year ended June 30, 2012.

Financial Impact:

None.

Background/Discussion:

Boldt, Carlisle and Smith LLC has completed the City's audit for the fiscal year ending June 30, 2012. A copy of the audit report was mailed directly from the audit firm to the City Council.

A budget workshop was held January 22, 2013 to discuss the Audit and related issues with the Auditor.