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THE OREGON SCENIC WATERWAYS PROGRAM



A Landowner's Guide

CONTENTS

The Oregon Scenic Waterways Act	3
The Program	4
Notification Process	10
Conserving Riverbanks	12
National Wild and Scenic Rivers	14
Reference	15
Questions and Answers	20

THE OREGON SCENIC WATERWAYS PROGRAM *A Landowner's Guide*

Preface

This publication is a guide for private landowners who live and work along Oregon's scenic waterways. It provides a general explanation of the Oregon law governing the development and conservation of the areas designated as scenic waterways (see map on page 22). It describes how the program works, what activities along the state's scenic waterways require approval, and offers a step-by-step process of how to get it all done. Conservation measures that can enhance the value of private property and protect scenic waterways are also suggested.

All activities within Oregon Scenic Waterways must be undertaken according to the Oregon Scenic Waterways Act and its rules. Any questions about your project should be directed to the Oregon Parks and Recreation Department (OPRD) before any activity begins.

Copies of this publication are available from the Oregon Scenic Waterways Program, Oregon Parks and Recreation Department, 1115 Commercial Street, NE, Suite 1, Salem, OR 97301-1002, or call 503-378-4168 x 235. It is also available online at www.oregonstateparks.org.

On the cover: Nestucca River

THE OREGON SCENIC WATERWAYS ACT

History of the Act

Oregon is blessed with a diversity of river systems that richly contribute to our quality of life. Wise stewardship of the state's natural resources becomes increasingly important as the population along our rivers increases and development quickly follows.

Landowners along an Oregon Scenic Waterway likely feel a special "ownership" of the river. These people, along with many other Oregonians, seek to conserve and protect these rivers for their enjoyment today, and for their children's tomorrow. By a 2:1 margin, the people of Oregon voted to establish the Oregon Scenic Waterways Program in 1970, recognizing that taking responsibility for these "special" rivers and adjacent lands was necessary if they were to remain unspoiled.

Passage of the Scenic Waterways Act, in 1970, immediately set into motion a state protection program for certain rivers in Oregon. The program promotes cooperative protection and wise use of these rivers by federal, state and local agencies, individual property owners and recreation users. This Act is Oregonians' response to protecting the state's beautiful rivers. It tries to achieve a balance between protecting natural resources and granting the wishes of riverbank property owners.

What the Act Does

A major function of the Scenic Waterways Program is to protect the natural and scenic diversity of waterways by encouraging new development to blend in with what is already there. No attempt is made to restore scenic waterways to a pristine condition, and no claim is made to their beauty being present only in a natural, unaltered state. This program applies to all new developments. The ability to fit in and be concealed determines whether or not new development is acceptable.

Under the Act, OPRD must be notified of certain changes that landowners may want to make to their property, and those changes may be subject to review (for details, see pages 10-11).

The Scenic Waterway Program's goals are:

- To protect the free-flowing character of designated rivers for fish, wildlife and recreation. No dams, reservoirs, or impoundments are allowed on scenic waterways.
- To protect and enhance scenic, aesthetic and natural values, recreation, scientific research, and fish and wildlife qualities along scenic waterways. New development or changes of existing uses within a scenic waterway are reviewed before they may take place.
- To protect private property rights. The Act discourages unsightly structures or inappropriate developments that could be a nuisance to neighboring landowners or even depreciate property values. It prohibits pollution and the disturbance of adjacent surface lands by placer mining. It also prohibits the public use of private property without explicit consent of the landowner.
- To promote expansion of the scenic waterways system. The Act sets up a process and establishes criteria for adding new rivers to the system.
- To encourage other state agencies to act consistently with the goals of scenic waterways management. OPRD reviews plans and decisions made by other state agencies for possible impact on the scenic waterways system.

The Act Does Not:

- Restrict the use of existing water rights along scenic waterways. Once a river is designated, developments may remain and are protected.
- Allow public use of private property without consent of the landowner.
- Require the removal of existing development or private property uses.

OPRD administers the Oregon Scenic Waterways Act. Other state agencies, such as the Division of State Lands, and the Oregon Water Resources Department, also have special responsibilities. For a complete list of other agencies involved in the Act, see page 15.

THE PROGRAM

Scenic Waterways Designation

A river or river segment can be designated as an Oregon Scenic Waterway by one of three ways:

- **By the governor.** After studies by OPRD and favorable recommendations from OPRD and the Water Resources Commission, the governor may designate a scenic waterway. The new designation becomes effective if the Legislature has no objections.
- **Direct legislative action.** The Clackamas River was added to the system by the Legislature in 1975. In

fact, parts of new rivers (and one lake) were added this way in 1983, 1985 and 1987. The governor can veto this legislation at any point.

- **Public initiative.** The voters of Oregon, following a successful initiative campaign, established the program in 1970 by a vote of 2 to 1. In 1988 the system doubled as a result of Ballot Measure 7. The governor or the Legislature cannot veto public initiative.

Scenic Waterways Boundary

A scenic waterway includes the river and its shoreline, and all land and tributaries within one quarter mile (1320 feet) of its banks. Land outside of this isn't in the jurisdiction of the Scenic Waterways Program and isn't affected by the Oregon Scenic Waterways Act.

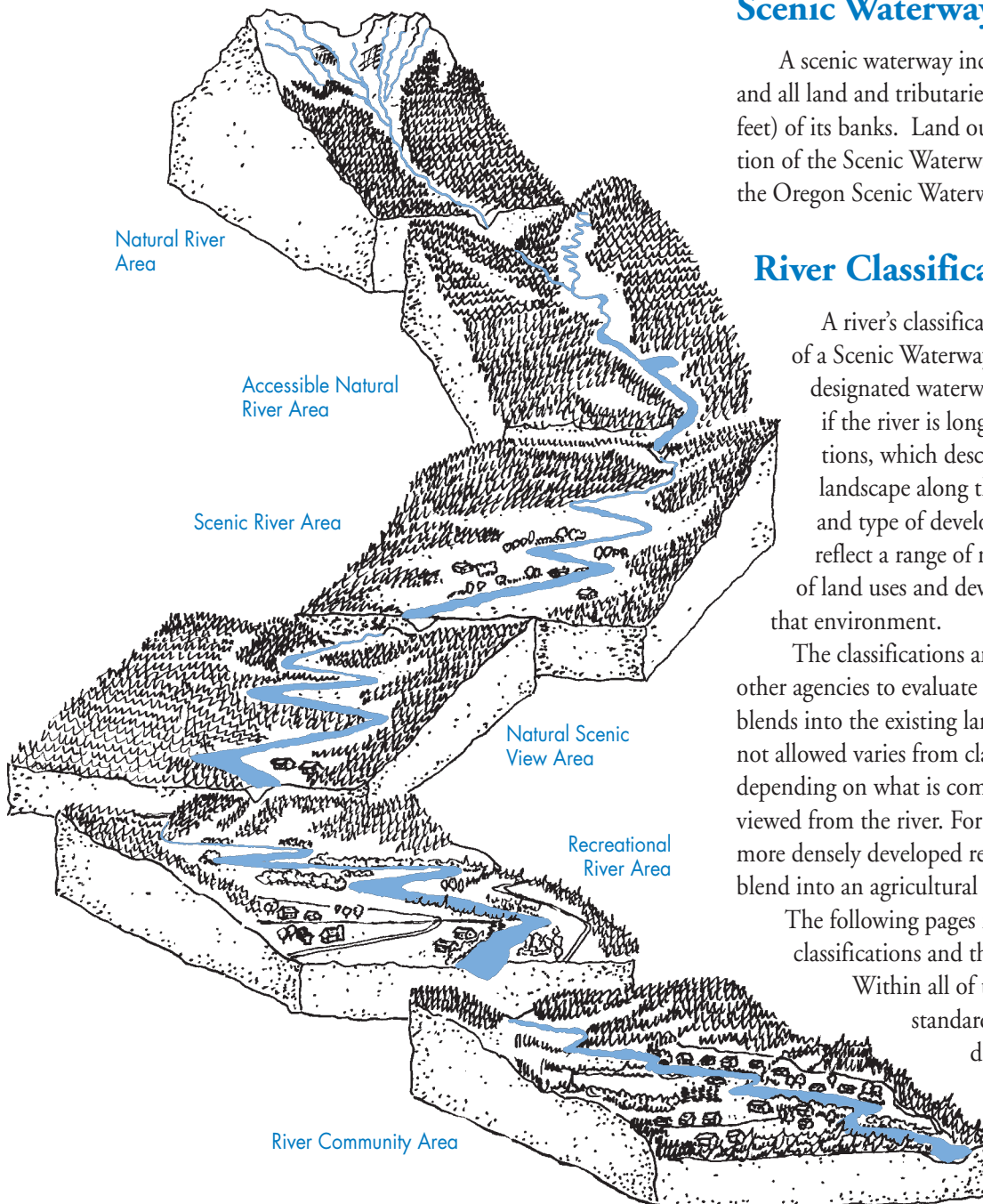
River Classification

A river's classification is an important component of a Scenic Waterway Management Plan. Each designated waterway is given one (or possibly more, if the river is long or complex) of six classifications, which describe the general appearance of the landscape along the river as well as the amount and type of development. These classifications reflect a range of river environments and a variety of land uses and development densities for that environment.

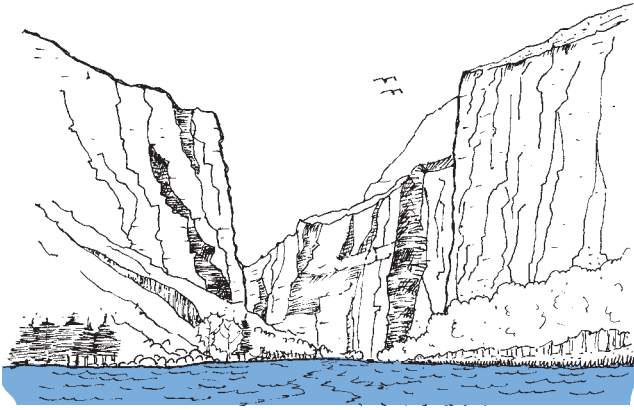
The classifications are also guidelines for OPRD and other agencies to evaluate how well new development blends into the existing landscape. What is allowed and not allowed varies from classification to classification, depending on what is compatible with the existing scene as viewed from the river. For example, uses that fit into a more densely developed residential area will not necessarily blend into an agricultural or forested setting.

The following pages illustrate examples of the classifications and their standards of development.

Within all of these classifications, development standards vary depending on existing development and the appearance of the landscape.



Natural River Area



A Natural River Area is undeveloped, and pristine or near pristine. It is accessible only by trail, boat or airplane. While the landscape of a Natural River Area can vary from steep-walled canyons to forested foothills, its character is consistent: primitive, very scenic, and conveying a sense of solitude. Evidence of human use in a Natural River Area is usually limited and any structures or indication of settlement are rare or scattered.

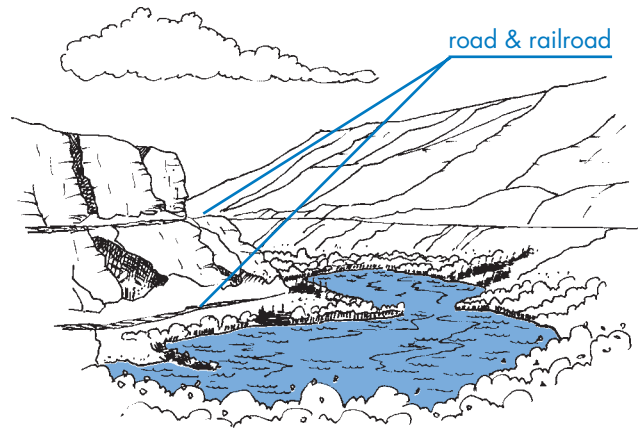
Because a Natural River Area is undeveloped, any change has great potential to affect its natural beauty. A Natural River Area is designed to preserve and protect its primitive natural condition. Stringent standards for concealing all developments from the river are applied. River recreation activities compatible with a primitive setting and with very low visual impact are allowed.

Conditions for Use

A Natural River Area's dominant feature is its natural, primitive character. To assure adequate protection within the corridor:

- All new structures and developments must be completely hidden (screened) from the river, usually by topography (landform).
- Public recreation facilities and natural resource protection measures (*e.g.*, stream bank protection) may be visible from the river only if absolutely necessary. Their appearance must blend into the natural landscape and in no way dominate the view from the river.

Accessible Natural River Area



An Accessible Natural River Area is similar to a Natural River Area in character and lack of development, but an Accessible Natural River Area can be usually reached by road. Typically, the access road is unpaved and passable only during warm, dry seasons.

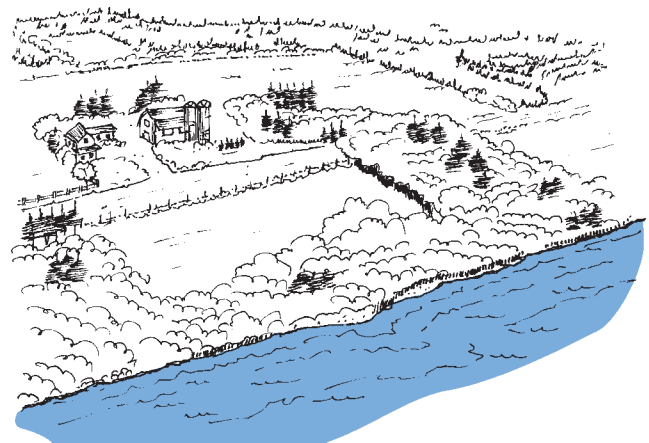
An Accessible Natural River Area is managed like a Natural River Area. The undeveloped, pristine character of the area is protected and preserved, with stringent standards for screening new development that can be seen from the river.

Conditions for Use

To protect and preserve the natural character of the view from the river:

- All new developments must be completely screened from the river, usually by topography.
- Existing roads cannot be extended or improved.
- Public recreation facilities compatible with the undeveloped, primitive condition of the landscape are allowed.

Scenic River Area



A Scenic River Area may have nearby development, but for the most part is undeveloped and natural appearing. The dominant human influences in a Scenic River Area are

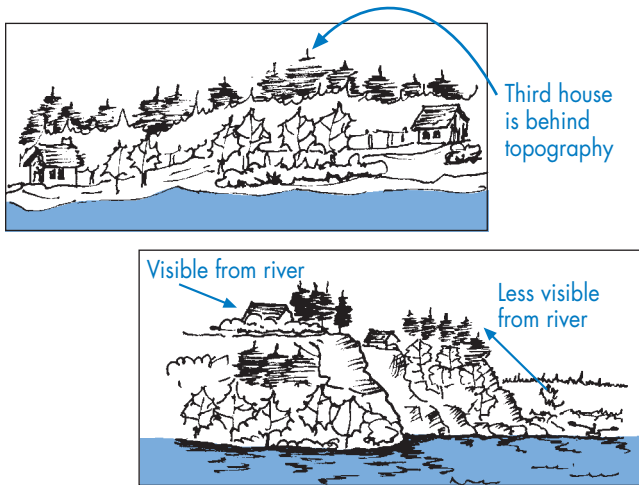
agriculture and grazing. Roads may be nearby, but are lightly traveled and not easily seen from the waterway. Power lines may be visible.

A Scenic River Area is managed to protect the scenic quality created by the combination of agricultural and natural features. Agriculture and recreation activities compatible with existing land uses are allowed.

Conditions for Use

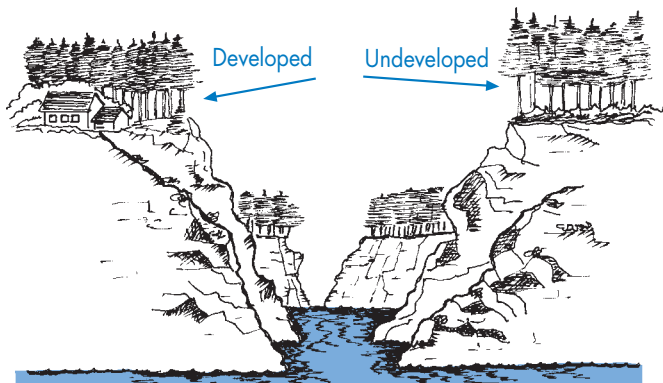
In general, certain structures and improvements can be visible from the river, but they must:

- Be related to agricultural, residential or recreation activities already visible.
- Meet the general design standards for building (height, color and materials).
- Meet local zoning requirements or density standards* established by the waterways program.



* An example of a density standard exists along the Rogue River. Only two residences per mile may be visible along each bank of its Scenic River Area. If the density standard is already met, new structures must be screened from view by topography. If only one house is visible, the new house may be seen, but must meet the uniform standards for color, wall and roof materials, and height.

Natural Scenic View Area



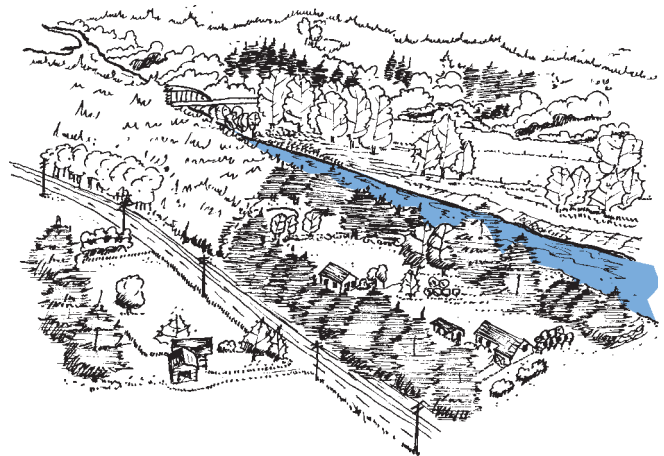
A Natural Scenic View Area contains one undeveloped and largely pristine riverbank while the opposite bank is more developed.

Conditions for Use

Standards for development within a Natural Scenic View Area are similar to those for a Natural River Area or Accessible Natural River Area:

- New development along the waterway must be completely screened from view from the river, usually by topography. Vegetative screening of new development may be allowed in a forested area.
- Existing roads within a Natural Scenic View Area usually cannot be improved or extended.
- Public recreation facilities and resource protection measures can be visible, if their appearance blends in with the natural character of the surroundings.

Recreational River Area



A Recreational River Area contains mixed agricultural, residential and commercial development along the shore and adjacent lands. A Recreational River Area is often rural or pastoral in character and easily accessible from local roads.

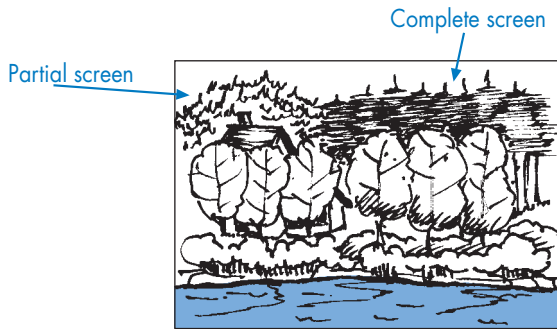
A Recreational River Area is managed to protect the view from the river, allow development consistent with existing land uses and provide for a wide range of recreational activities within the scenic waterway.

Conditions for Use

In general:

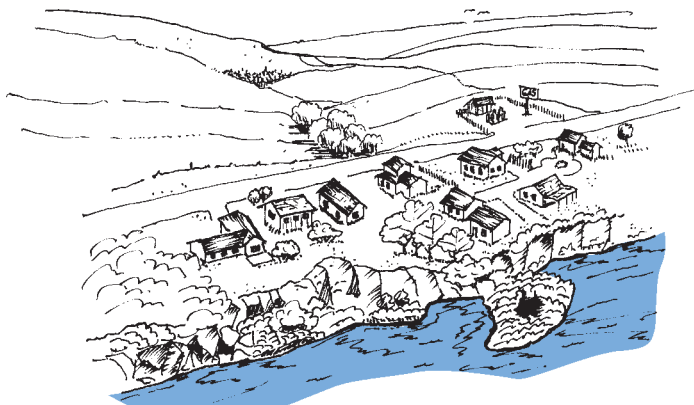
- Development is allowed if it does not interfere with the natural scene from the river. On scenic waterways where the natural landscape is dominant, such as the Deschutes River, this means that development other

than that needed for agricultural, recreational or resource protection uses is not allowed to be visible and requires complete screening. On other rivers where development is visible and dominant, development may be visible if it meets certain requirements for screening, density or use. For example, on the Rogue River, agricultural, commercial or residential structures can be visible from the river but are limited to four per mile per bank, and must meet the uniform standards for color, material and height.



Existing uses, public recreation facilities and natural resources protection projects can be seen from the river. They must blend into the natural scene as much as possible.

River Community Area



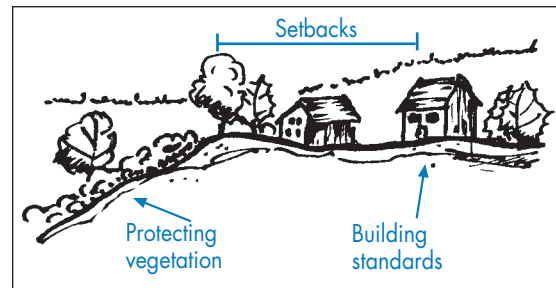
A River Community Area is a densely developed area, such as a residential tract or platted subdivision.

A River Community Area is managed to allow development compatible with local zoning, and must blend into the natural character of the surrounding landscape. This also means protecting existing riparian vegetation, and encouraging activities that protect the resources or improve the landscape.

Conditions for Use

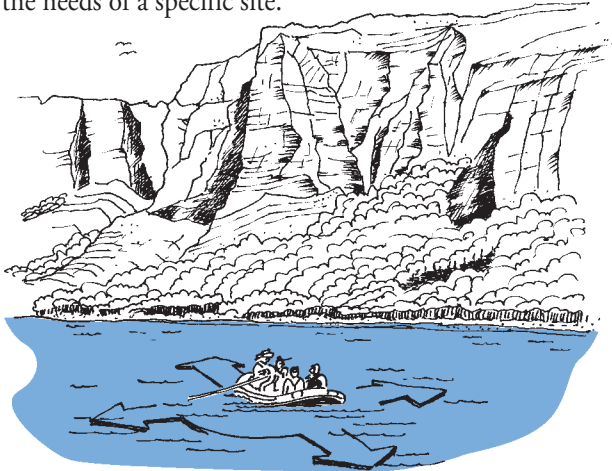
In general:

- Development compatible with existing local zoning is allowed.
- New improvements may be visible from the river if they meet the design standards (height, color, materials). A density standard may exist for the number of structures visible from the river.
- OPRD encourages landowners to protect riverbank vegetation.



RULES OF LAND MANAGEMENT

Part of managing a scenic waterway is adhering to performance and design standards. These standards, called “Rules of Land Management,” apply to all uses of land and new development within any classification. The standard is tailored to fit the individual character of the river landscape and the types of uses found within its classification. In this way, the standards respond to the natural and visual features of a particular waterway and to the needs of a specific site.

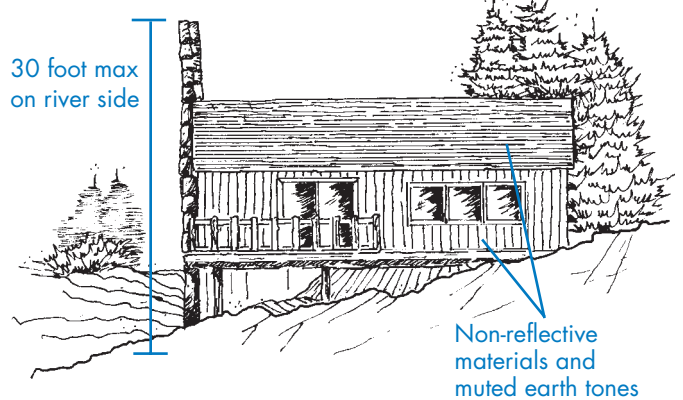


The view from the river occurs in all directions. Its protection is important in evaluating new development.

Compatibility

Much of the Scenic Waterways’ value depends on the beauty of their settings. Changes to riverbank settings either visually preserve or visually degrade the existing beauty of the landscape. Careful planning allows new development to conform to the natural setting by blending it into the existing environment. For example, painting a new house dark green helps it become invisible against a conifer forest backdrop. New activities can therefore fit into their surroundings with skill and care.

Buildings

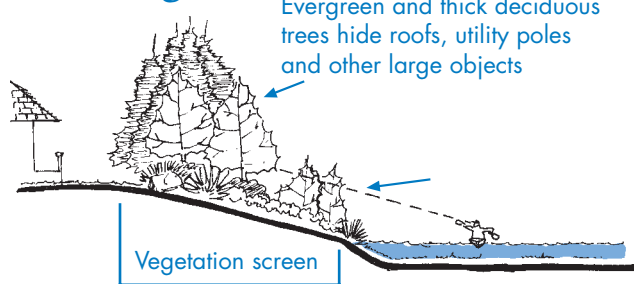


30 foot max on river side

Non-reflective materials and muted earth tones

All new structures visible from a scenic waterway are subject to specific design criteria. For example, structures cannot be taller than 30 feet on sides facing the river. Large exterior surfaces, like roofs, must be non-reflective, and finished in muted colors that blend in with the surroundings. Construction disturbance should be minimal, and re-vegetation is always an important post-construction measure.

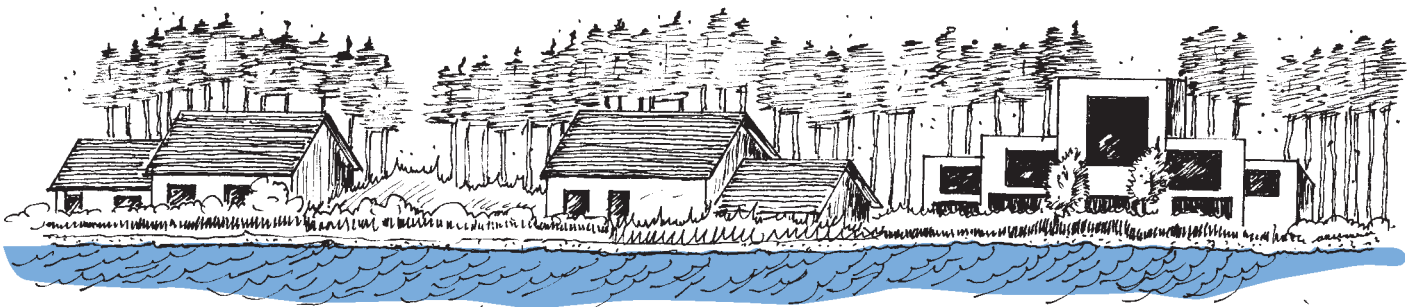
Screening



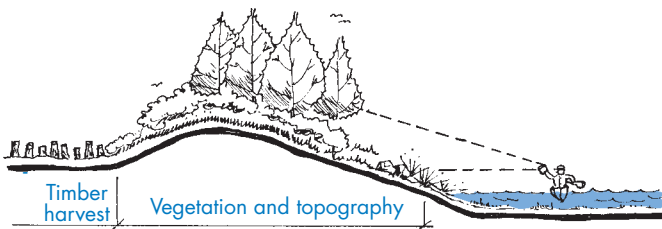
Evergreen and thick deciduous trees hide roofs, utility poles and other large objects

Vegetation screen

Screening standards are designed to camouflage structures and new uses from a scenic waterway. The effects of development can be dramatic: a new house in a heavily-forested area can be highly visible if all vegetation on the site has been cleared away. Roads, telephone poles and buildings show up very easily in desert areas.

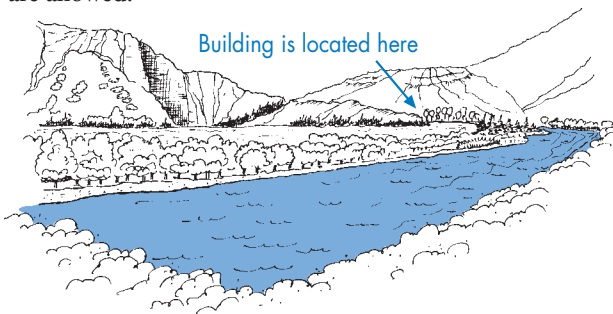


The far right building would fit in with adjacent structures if it were similar to them in scale, materials, color and style.



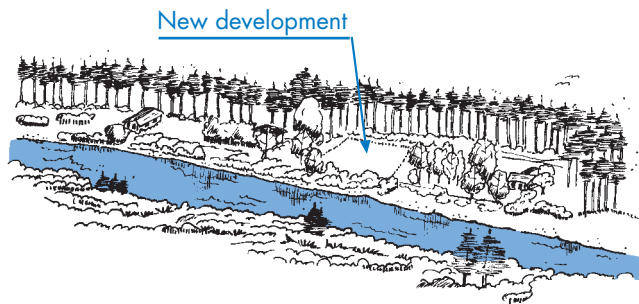
Screening standards require using vegetation and topography (landform) to conceal structures and certain uses from the waterway's view. Structures seen from the river must "... be located in such a way that topography and natural vegetation make them as inconspicuous as reasonably practicable, and in no case obtruding on the view from the river." (OAR 736-40-035(7)).

Because of their obvious visual intrusion, most signs and all advertising are not allowed. Specifically, "no signs or other forms of outdoor advertising that are visible from waters within a scenic waterway shall be constructed or maintained." (OAR 736-40-035(11)). Property protection signs such as "No Hunting" or "No Trespassing" are allowed.



Topography or landform, like vegetation, can be used to conceal structures and activities.

Land Uses



Performance standards and rules require certain conditions for activities such as tree cutting, mining, logging, road construction and utilities installation. For example, all new roads or utilities must be located "... to minimize impairment of the natural beauty of the scenic waterway." Also, "... it will be desirable to place electrical and telephone lines underground wherever reasonably practicable." (OAR 736-40-035(6)(b)). All timber harvest proposals must include a plan detailing "timber to be cut, road locations, logging methods, slash cleanup, soil stabilization, re-vegetation measures and any "other details as the Commission may require." (OAR 736-40-035(1)).

Water Rights

Because all unappropriated water belongs to Oregonians, the law requires that any person taking water from a stream must have a water right. A Scenic Waterway designation has no impact on current water rights. However, the Scenic Waterways Act outright prohibits dams, reservoirs, or impoundments.

If you need to obtain a new water right, the Oregon Water Resources Department must assure that the new out-of-stream use will not diminish the flows necessary to support the fish, wildlife or recreational uses of the river. Questions about water rights or water use should be directed to the local water master or the Oregon Department of Water Resources (503-378-8455).

Placer Mining

Placer mining is the "process of extracting minerals from a placer (gravelly soil) utilizing mechanized or hydraulic equipment". A permit from the Division of State Lands is required to engage in recreational placer mining. The Scenic Waterways Act prohibits placer mining on waters within scenic waterways other than recreational placer mining.

Recreational placer mining must not hurt fish, fish passage or habitat. It also must not interfere with recreation.

Recreational Prospecting

Recreational prospecting is permissible in scenic waterways without a permit. Recreational prospecting is limited to non-motorized methods and the movement or alteration of small quantities of gravel. Call your local district fish biologists (listed under Oregon Department of Fish and Wildlife), the Division of State Lands (503-378-3805) or the Oregon Water Resources Department (503-378-8455).

Recreational prospecting is not allowed at any site where fish eggs are present.

Existing Uses and New Development

The classification system and performance and design standards apply to new development along scenic waterways only. All uses that existed along a river before it was designated as a scenic waterway are not affected, and existing uses are allowed to remain. Activities that maintain the condition of the existing use are also allowed to continue. However, any change to the use, whether new development, replacement or alteration, must meet the standards set out in the management plan for each scenic waterway.

NOTIFICATION PROCESS

OPRD must be notified of certain activities that change your existing property. These are activities that noticeably alter or modify a part of your property, such as new building construction, building replacement, land clearing, road construction, timber harvesting, etc. For information on additions to existing structures, contact OPRD.

You do not need to notify OPRD about activities that continue the use of your property without major alteration. These include repainting your house or outbuilding in their existing color, fence construction, some landscaping, some garage construction, cutting dangerous trees, or selling your property.

How to Notify OPRD of Your Project

Step 1

- Contact your local county planning or zoning office. They will explain the local regulations and tell you what permits you need. Local regulations vary from county to county and can be more stringent than the Scenic Waterways requirements. Obtaining a local land use or building permit is not the same as getting scenic waterway approval for improvements or changes.

Step 2

- Design the project to best fit into the area's scenic beauty. Be sure to consider the effect the proposed project will have when seen from the river.
- Obtain the notification form from OPRD. (See reference section, page 1)
- Fill out the form.
- Complete the required drawings.

Step 3

- Return the notification form and required drawings to OPRD.
- Be sure to complete supplementary forms for timber harvest and salvage if these activities are part of your proposal. These forms are also available from OPRD.

Step 4

- Wait until OPRD takes action on the proposal. Your project cannot begin until you receive written approval from OPRD, which usually takes about eight weeks.

Even though OPRD can legally take up to one year to review a proposal and take formal action, most proposals are handled in six to eight weeks. Remember, approval from OPRD and other permitting agencies is required before a project can begin.

If you are at all unsure about your proposal, contact OPRD. If written notification is required, the process is simple and there is no fee. Instructions for completing the notification forms are included on the form. If your proposal doesn't need OPRD approval, you will be contacted quickly.

For sample maps and applications see pages 1-4 in the reference section.

Project Review

In reviewing a project, an OPRD employee may call for information or arrange to visit the site. Other agencies may be asked to look at the project.

After thorough review, OPRD will take one of three actions on the proposal:

1. A proposal is approved outright if it doesn't affect the natural beauty of the scenic waterway and meets the specific management rules for the river classification for which it is proposed. OPRD notifies the landowner in writing with any conditions, such as screening. This approval process generally takes six to eight weeks.
2. OPRD may determine that a proposal would harm the scene when viewed from the river. OPRD will then work with you to find a mutually acceptable modification to the proposal, which usually involves a modest change to the original plans. This process sometimes takes longer than the normal six to eight week period.
3. If negotiations fail to reach a conclusion acceptable to OPRD's standards and the landowner's plans, OPRD may deny the application. If the project is denied, OPRD can purchase the property outright for fair market value, or trade or buy an easement from the landowner. Condemnation, though legal, is rarely used. If OPRD does not purchase the land or reach an agreement with the landowner within one year of the original proposal, the landowner may proceed with the original proposal.

Acquisition of Property

The focus of the Scenic Waterways Program is to manage by negotiation and compromise. Acquiring private property by condemnation is a potential course of action, but only under these very special circumstances:

- OPRD rejects a proposal that will harm the natural beauty of a scenic waterway. OPRD can then purchase or exchange property, or purchase a scenic easement.
- A property owner is developing land in a way that damages the natural beauty of the river, or violates the river management plan, notification requirements or conditions of project approval.

In certain special cases, OPRD may acquire properties or easements that have special scenic, natural or recreational qualities. These purchases are made only from willing sellers.

If someone is violating scenic waterways standards, please call OPRD.

Special Permits for Riverbank Work

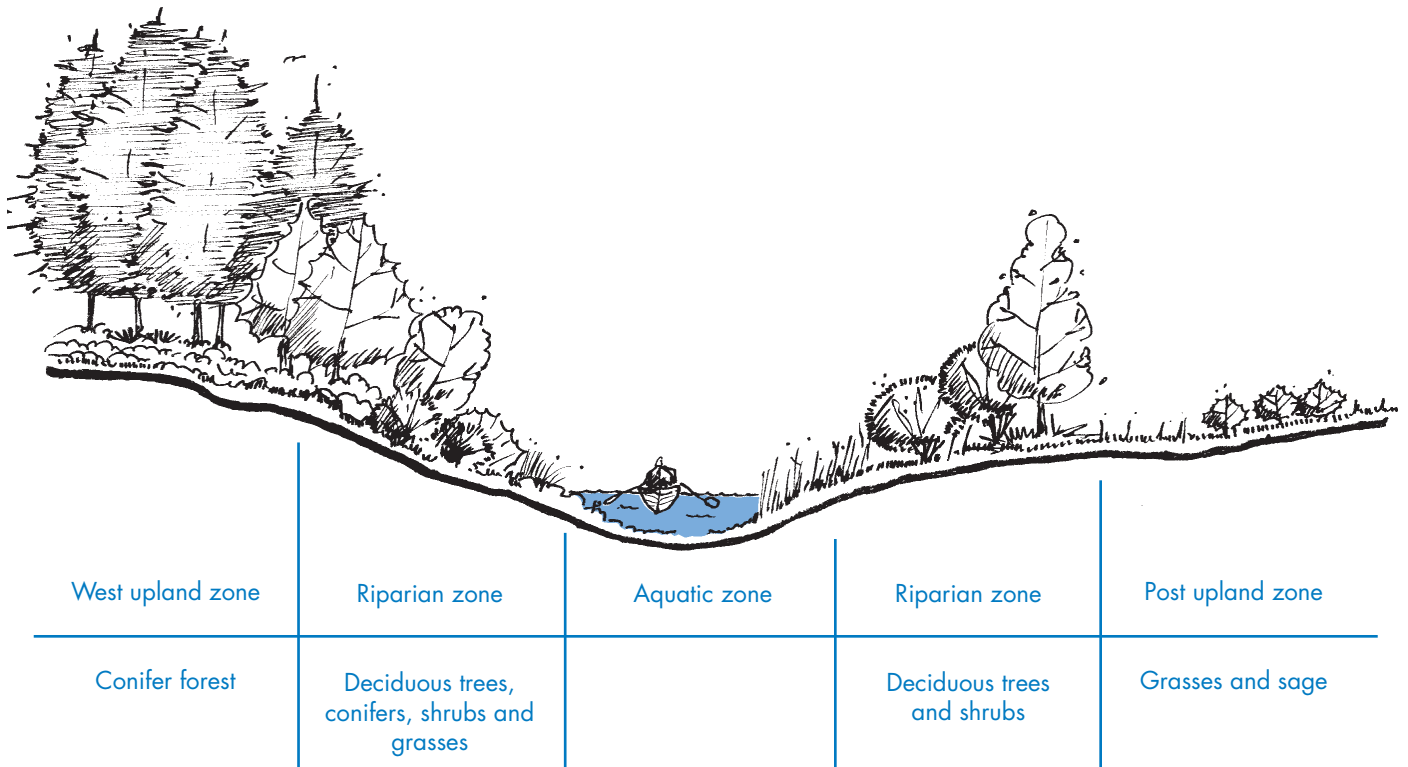
Very strict standards apply for working in the river or on the bank. The State Land Board must approve any project that involves placing fill, removing material or any other project where the riverbank is altered in any way.

The Division of State Lands (DSL) issues permits for removal, filling or altering more than 50 cubic yards of material along state waters. However, removing, filling or altering **any amount** of material along a scenic waterway requires a permit.

OPRD works closely with DSL to assure that new work meets Scenic Waterway standards. Most permits are approved, sometimes with conditions requiring re-vegetation and scheduling to avoid recreation or fishery conflicts. Maintaining the natural beauty of the river is a consideration, and erosion control measures such as bank shaping or re-vegetation are favored over rock riprap. Car chassis, asphalt, and broken concrete must never be used to stabilize the stream bank. Typical projects requiring Removal-Fill permits include constructing bulkheads, placing riprap, erosion control projects involving grading or re-vegetation, removing gravel, filling, or pipeline crossings.

Copies of the Oregon Removal-Fill Law, rules for administering the law, and information on applying for a permit are available from the Division of State Lands. The county planning office, Soil and Water Conservation District Office, or local Oregon Fish and Wildlife representative may also be able to help.

CONSERVING RIVERBANKS



The Scenic Waterways Act was implemented to protect special rivers in Oregon. Screening development is not the only way to protect a river though. The following section talks about other efforts that can help preserve our beautiful rivers in the years to come.

Preserving Riparian Zones

Riverbanks vary a great deal in character depending on their location and the amount of natural or human disturbance that has occurred along them. Some banks have well-developed areas of native, water-dependent vegetation adjacent to the river, which are called riparian zones. In western Oregon, grasses, shrubs and deciduous trees between the river and conifer forests characterize riparian zones. In eastern Oregon, riparian zones contain grasses, forbs and sedges, woody shrubs and trees, which are easy to distinguish from the drier vegetation on higher ground.

Regardless of their location, riparian zones are extremely important. They provide critical food, cover and water for fish and wildlife. They form important migration corridors for wildlife along rivers, maintain riverbank stability, reduce erosion, protect water quality and buffer the effects of flooding. Riparian zones are attractive places and contribute to the overall appearance of riverfront property.

The riparian zone is special and distinct. It occupies a small area and possesses a climate, water temperature, soil makeup and plant arrangement very different from the land surrounding it. The simplest and most effective technique for protecting the riparian zone is to leave natural vegetation, soil, and debris such as leaves and fallen trees undisturbed. The area will be less vulnerable to damage, and a home will be protected from flooding, storms and sun glare. An undisturbed riparian zone also provides privacy from the public using the river.

The Oregon Plan

The Oregon Plan began as a state effort to restore salmon, but has turned into a cooperative effort of state, local, federal, tribal, private organizations and people to restore the habitats of all native Oregon fish. In 1997, the Legislature established the Oregon Plan and approved funding to begin the task of restoring native fish populations to productive, sustainable levels.

The Oregon Plan currently has two parts: the Coastal Salmon Restoration Initiative (CSRI), the original effort to restore Coho Salmon, and the Healthy Streams Partnership, which focuses on improving Oregon's water quality. The first supplement to the Oregon Plan, and the next step

in this process, is a steelhead restoration effort.

Thus far, Oregon Plan efforts have been successful. Water conservation programs are up and running, pollution control is receiving funds, and measures are being taken to preserve riparian zones. None of these efforts makes a difference unless you do your part, though. For this program to be successful and achieve long-term results, everyone needs to be committed to helping.

The Soil Conservation Service reached through the local Conservation District or the Cooperative Extension Service can help you identify ways to protect your property's riparian zone.

Planning Riverfront Activities

Land adjacent to a riverbank is valuable for a variety of activities, but they can harm the riverbank because of its vulnerability to trampling, soil compaction, erosion, loss of vegetation, and degradation of water and scenic quality. The following is a list of activities that can be harmful to the scenic waterway environment.

Roads. Whether logging, farming, building a house or recreation site, locating all roads away from the river is one of the most important actions you can take.

Timber Harvesting. Practice selective harvesting, directional felling and use "minimal impact" equipment to create the least amount of disturbance.

Building Construction. Avoiding building construction along the riverbank prevents erosion and decreases the chance of personal property loss during a flood.

Recreation Facilities. Locate campgrounds, recreation buildings, picnic table, trails and other facilities away from the riverbank to prevent erosion and trampling.

Farming. Keep a wide vegetation strip between farmland and riverbank to avoid losing valuable topsoil and cropland.

Grazing. Keep animals either away from the river, or build a fence in the riparian zone to keep animals in one area.

Garbage. Keeping the riverfront free of trash, litter and debris is important to the health of the river and is vital to protecting its beauty.

Historic and Archaeological Artifacts

Native Americans and early settlers of Oregon often camped or settled along Oregon's rivers. Although many of these sites have long been abandoned, artifacts such as arrowheads, scrapers, pottery shards, nails, and farm implements are sometimes unearthed by wind or erosion, or by land development.

If you find an artifact or other object of historical significance, please call the State Historic Preservation Office (503-378-4168 x. 232). They will help determine the importance of the discovery and suggest how to preserve it.

On Native American lands, historically significant sites and artifacts such as petroglyphs often have special importance. On public lands, they are given special protection. Remember: it is a violation of state and federal law to remove, destroy, or deface petroglyphs, arrowheads, or other artifacts found on public lands.

NATIONAL WILD AND SCENIC RIVERS

Congress established the National Wild and Scenic Rivers System in 1968 to preserve the nation's "outstandingly remarkable, free-flowing rivers." As in Oregon's scenic waterway legislation, the federal law emphasizes protection of scenic, historic, natural and recreational qualities.

More than 40 of Oregon's rivers boast National Wild and Scenic status, with 20 of those designated as state scenic waterways segments also. The Rogue was among the eight "charter" wild and scenic rivers.

National Wild and Scenic River boundaries may not exceed an average of 320 acres per mile, but can vary in distance from a river to include all special "outstandingly remarkable values." When private property in the Oregon Scenic Waterway corridor also falls within the federal river boundary, the land is subject to state regulations. Federal agencies can control the uses of private property unless by purchasing it, or through purchased conservation easements.

A key difference between the two systems involves classification. A National Wild and Scenic River is divided into three classifications: Wild, Scenic or Recreational. Congress establishes these categories. The Oregon Scenic Waterways uses six classifications: Natural River Area, Accessible Natural River Area, Scenic River Area, Natural Scenic View Area, Recreational River Area and River Community Area.

Federal

- Boundary not to exceed average of 320 acres per river mile. Must be established within three years of designation. May vary in distance from river.
- Control of private lands limited to purchase of easements or by "fee simple." No condemnation or fee acquisition can occur if more than 50% of a segment is publicly owned.
- Land activities on federal lands controlled by classification and management plan.
- Potential exists for regulation of upstream federal uses.

- Some interest in stream flows for recreation, fish and wildlife.
- Timber harvest highly restricted on federal lands in "Wild" classified sections; less so on "Scenic" and "Recreation" sections.
- New mining claims banned only in "Wild" sections.
- No new controls authorized over existing valid patented mining claims.
- No federal assistance or permits provided to new dam projects.
- BLM or U. S. Forest Service recognized as lead agency, depending on ownership.

State

- Boundary $\frac{1}{4}$ mile on either side of the scenic waterway.
- Stricter control exercised over in-stream fill and removal activities.
- Condemnation authority authorized, but rarely used.
- Some regulation of land use activities authorized by issuing permits.
- Some control over new water rights both within and upstream of scenic waterway.
- Strong concern for preservation of upstream flows for fish, wildlife and recreation.
- Timber harvest regulated.
- Placer mining banned, but allows some kinds of recreational placer mining.
- Licensing or approval of dams by state prohibited.
- State Parks recognized as lead agency, with responsibilities also assigned to Division of State Lands and Water Resources department, and to local government.

REFERENCE

Administration and Assistance

The Oregon Scenic Waterways Program is administered by OPRD in accordance with ORS 390.805-390.940.

Administrative rules (OAR 736-40-005 to 736-40-095) have been adopted to govern the program.

The department operates the Scenic Waterways Program through a notification and review process (see page 10).

OPRD welcomes the opportunity to work with anyone living within the boundaries of a scenic waterway. Staff will answer questions, review plans, explain scenic waterway standards, make suggestions on how to make a proposal work and refer landowners to other sources for more information.

Management Partners

By virtue of the Scenic Waterways Act and other laws applying to the use of lands/water along Oregon's rivers, OPRD has several management partners. Each of the following agencies has regulatory authority affecting a scenic waterway, and each provides technical information to help enhance and protect the natural and scenic value of private property.

Oregon Parks and Recreation Department
(503) 378-4168 ext. 293
<http://www.oregonstateparks.org>

Oregon Water Resources Department
(503) 378-8455
<http://www.wrd.state.or.us>

Division of State Lands
(503) 378-3805
<http://statelands.dsl.state.or.us>

Oregon Department of Fish and Wildlife
(503) 872-5255
<http://www.dfw.state.or.us>

Oregon Department of Environmental Quality
(503) 229-5696
<http://www.deq.state.or.us>

Oregon State Department of Forestry
(503) 945-7475
<http://www.odf.state.or.us>

Local Governments

City and county governments issue local permits and provide emergency services and law enforcement.

**OREGON PARKS AND RECREATION DEPARTMENT
NOTIFICATION OF INTENT TO MAKE IMPROVEMENTS,
CHANGE LAND USE, OR ENGAGE IN REGULATED ACTIVITIES
WITHIN THE OREGON SCENIC WATERWAY SYSTEM**

To process your application promptly, the Oregon Parks and Recreation Department must have completed, detailed information fully describing your plan to make improvements, change land use, or engage in regulated activities within a scenic waterway. Please supply all the information requested below which is in any way applicable and tell us of anything else which may affect the situation.

1. Name _____ Telephone _____

2. Address _____

3. Name and address of legal landowner if different from above:

a. Name _____ Telephone _____

b. Address _____

4. Location of improvement, land use change or activity:

County _____ Township _____ Range _____ Section _____ Tax Lot _____

5. Scenic Waterway _____

6. Type of Improvement, change of land use or activity proposed and its purpose:

7. Logging Proposal - Please complete Timber Harvest or Salvage Activities supplement sheet.

8. When do you want to begin? _____

How long will it take? _____

9. Attach an 8½ " x 11" map showing the following: (The map may be hand-drawn, need not be professional, but accuracy of detail, distance, scale, etc. is important. Appropriate photographs may be helpful.)

- | | |
|---|---|
| <input type="checkbox"/> a. North | <input type="checkbox"/> g. Well or other water supply (existing and/or proposed) |
| <input type="checkbox"/> b. Shape, size and dimensions of the property. | <input type="checkbox"/> h. Sewage disposal system (existing and/or proposed) |
| <input type="checkbox"/> c. Location of the river and direction of its flow | <input type="checkbox"/> i. Utility poles and lines (power and telephone, existing or proposed) |
| <input type="checkbox"/> d. Principal features of terrain and vegetation | <input type="checkbox"/> j. Location of proposed structures, improvements or activities |
| <input type="checkbox"/> e. Roads, driveways, etc. (existing and/or proposed) | <input type="checkbox"/> k. Nearest distance from proposal to river |
| <input type="checkbox"/> f. Existing structures and improvements | |

10. Complete the following where applicable:

A. Proposed building or structure:

1. Exterior dimensions: Length _____ Width _____ Height from natural grade _____

2. Siding: Material and Color _____

3. Roof: Material and Color _____

4. Architectural style: _____
5. How much clearing of vegetation will be necessary?

6. Does the site need leveling or grading? Yes No
7. If so, how much? _____
8. How will excess material be disposed of?

9. Attach drawings, photographs or working plans of the proposed structure which will clearly show its exterior appearance on all sides. Documentation should not be larger than 8½" x 11" in size.

B. Road construction:

1. Width _____ Length (in feet) _____
2. Equipment to be used _____
3. Percent of slope _____
4. Type of surface _____
5. How will the road be drained?

6. How will excess material be disposed of?

11. If the proposed improvements, change of land use or activity are not fully and clearly described in by the foregoing, attach a detailed description.

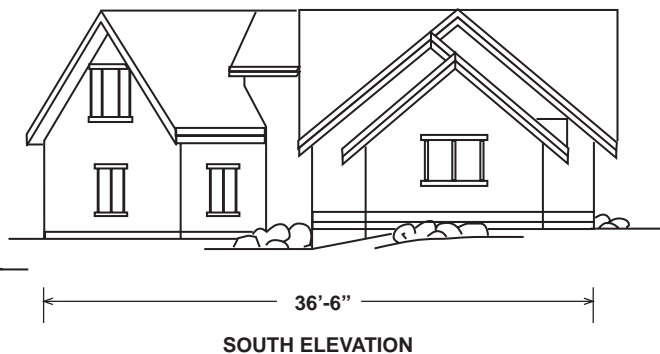
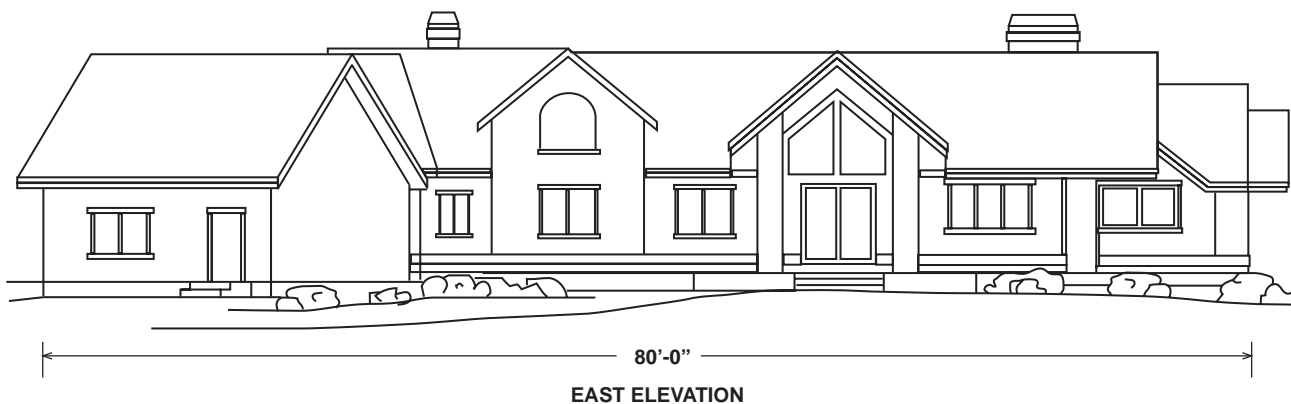
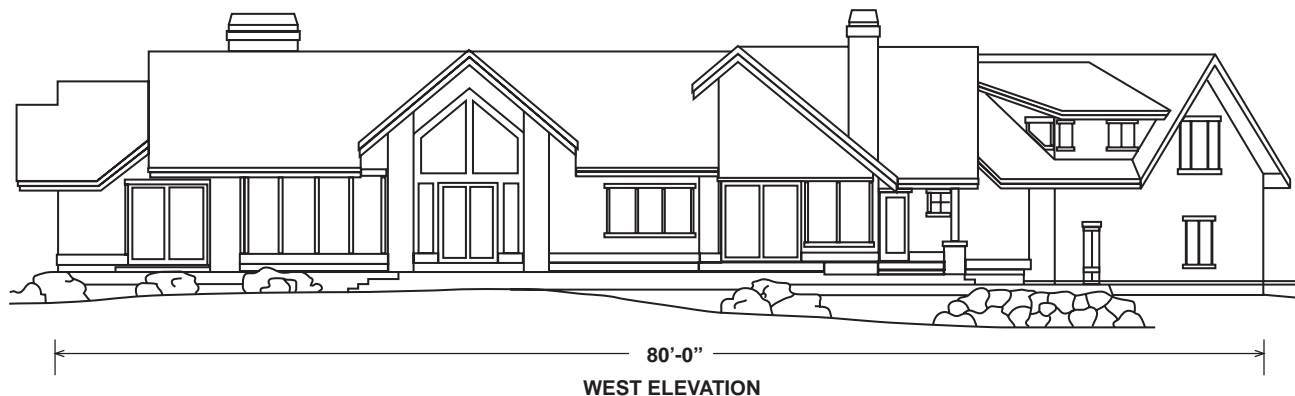
12. Signature of applicant _____ Date _____

13. Signature of legal landowner _____ Date _____

NOTICE: Legal landowner is responsible for any violations under the Scenic Waterway Act (ORS 390.805 to 390.925). You should not begin any regulated activity until written approval is obtained. If you have any questions, please contact Oregon Parks and Recreation Department, 1115 Commercial St. NE, Suite 1, Salem, OR 97301-1002; telephone 503-378-6305.

PROPOSALS RELATING TO OREGON SCENIC WATERWAYS SHOULD BE SUBMITTED DIRECTLY TO THE APPROPRIATE SCENIC WATERWAY COORDINATOR AS LISTED ON THE FOLLOWING PAGE.

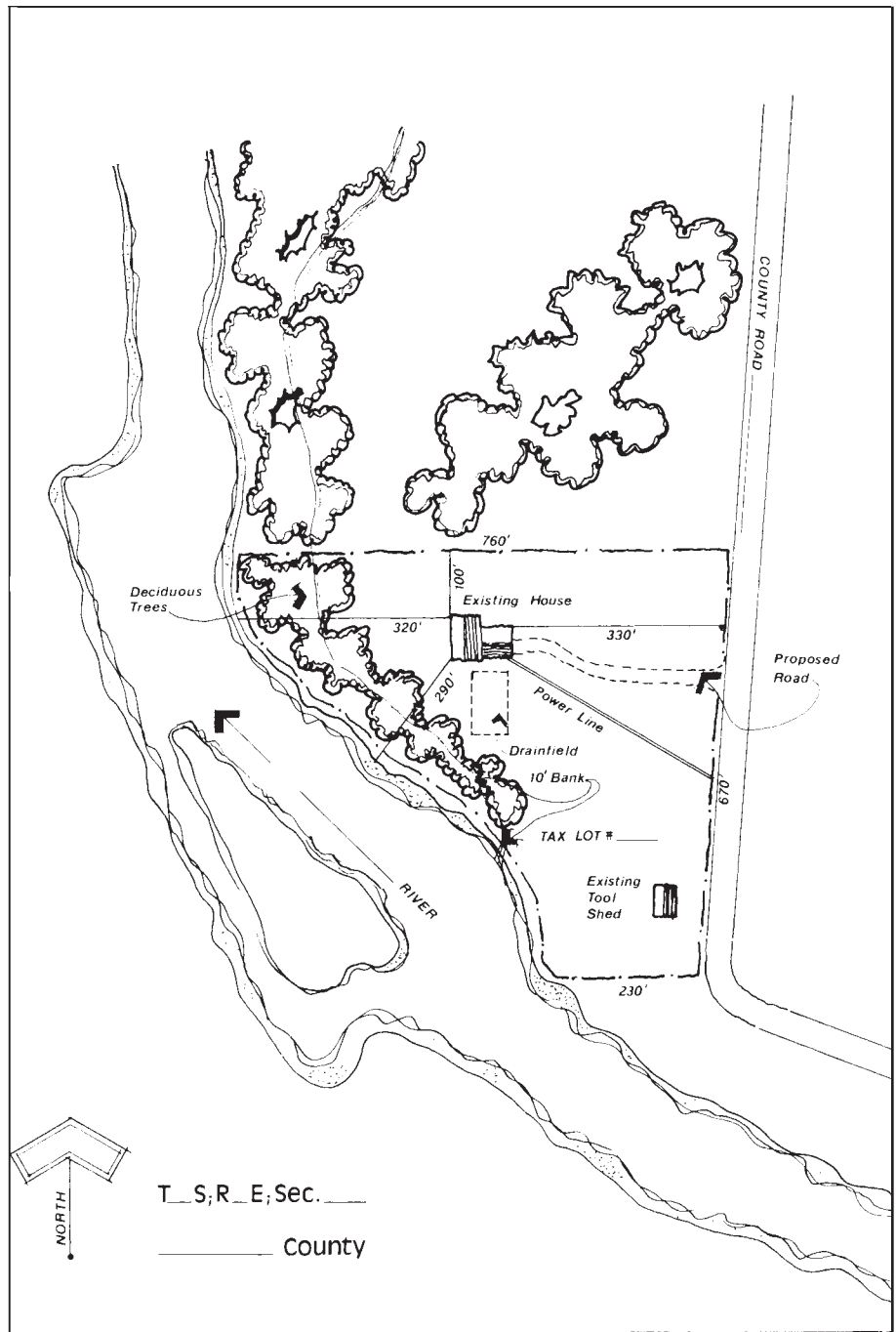
Sample Applications and Drawings



- A. Be sure to illustrate all sides of the building.
- B. Building features and descriptions.
- C. Siding materials and colors.
- D. Roof materials and colors.

Locate the following information on your map:

- Existing terrain features
- Existing vegetation
- Existing and proposed structure and improvements
- Nearest distance from your proposal to the river.
- Existing and proposed disposal system.
- River name and direction of flow
- Existing and proposed roads and driveways.
- Existing and proposed utilities.
- North arrow.
- Township, Range, Section, County.
- Property lines and dimensions.



QUESTIONS AND ANSWERS

Q: Will trespass be allowed on private lands?

A: No.

Q: What restrictions apply to residences? To farm buildings (maintenance, expansion, new construction)? To other buildings (recreation, commercial, industrial)? Will landowner's lose any use of development rights to their property?

A: Landowners wishing to develop, mine, build roads, cut timber, etc. must submit a notification to state parks. The project will then be evaluated as to its effect as seen from the river. If there is no effect, parks advise the landowner and he/she is free to proceed. If there is an effect, parks may make suggestions for change in the project design. If the suggestions are accepted the project can proceed. If they are not and the Parks Commission disapproves the project, parks must purchase the property or allow the project to go ahead. All this must happen within one year.

Q: Can cropping patterns be changed (e.g. allow for introduction of higher value crops) or rotated? What restrictions, if any, would apply to such changes or rotations?

A: Yes, in almost all cases, except where a very primitive undeveloped area is proposed for cultivation. In that case, notice must be given and the work evaluated for its impact on the view from the river. The procedures described under the previous question would be followed.

Q: What limitations or procedures apply to timber harvesting on private lands in the river corridors, other than those under the Oregon Forest Practices Act?

A: Notification is required. Projects must not substantially impair the natural beauty of the scenic waterway as seen from the river. The procedures described above would apply.

Q: What restrictions and procedures apply to construction, improvements or maintenance of private roads within the corridor?

A: Notice and approval is required of improvements to existing roads or the construction of new ones. No review and approval is needed for road maintenance.

Q: What is the "bank of the river" that the quarter-mile boundary is measured from? Is it the bank of the main channel, or the bank of side channels?

A: The river includes all side channels, so the measurement would be taken from the main channel or a side channel, if it exists.

Q: What happens in the event of a major flood and the river changes course (i.e., creates a new channel)? What happens to the scenic waterway boundary?

A: The boundary is measured from the bank of the river, regardless of where it is. During times of catastrophic high water, channels do change and cause some properties to be out of the boundary and new properties to be included.

Q: How long does the scenic waterway review process take?

A: By law, a landowner may not take action on a property until one year after submitting a proposal to the Oregon Parks and Recreation Commission. However, we try to complete reviews and issue approvals within six weeks of receiving a complete notification.

Q: Counties and cities typically average the height of a house. Do the scenic waterway rules average house height?

A: No. The height of a structure is measured from natural grade, on the riverside, to the highest point of the structure (including chimney, vents, antennas, etc.).

Q: What are “muted tones” when considering house colors?

A: Muted tones are colors that blend with the indigenous soils, rocks and vegetation of a particular river.

Q: If I sell my property after my notification is denied, can the new owner carry out the project after waiting one year from the date of notification?

A: No. In the event of a denial, the original owner may only carry out the proposed action, after the one-year period has expired.

Q: I have timber harvest rights on another person’s property within a scenic waterway. Can I apply for the notification alone, or does the owner’s signature also have to be included in the application?

A: The property owner must sign the application.

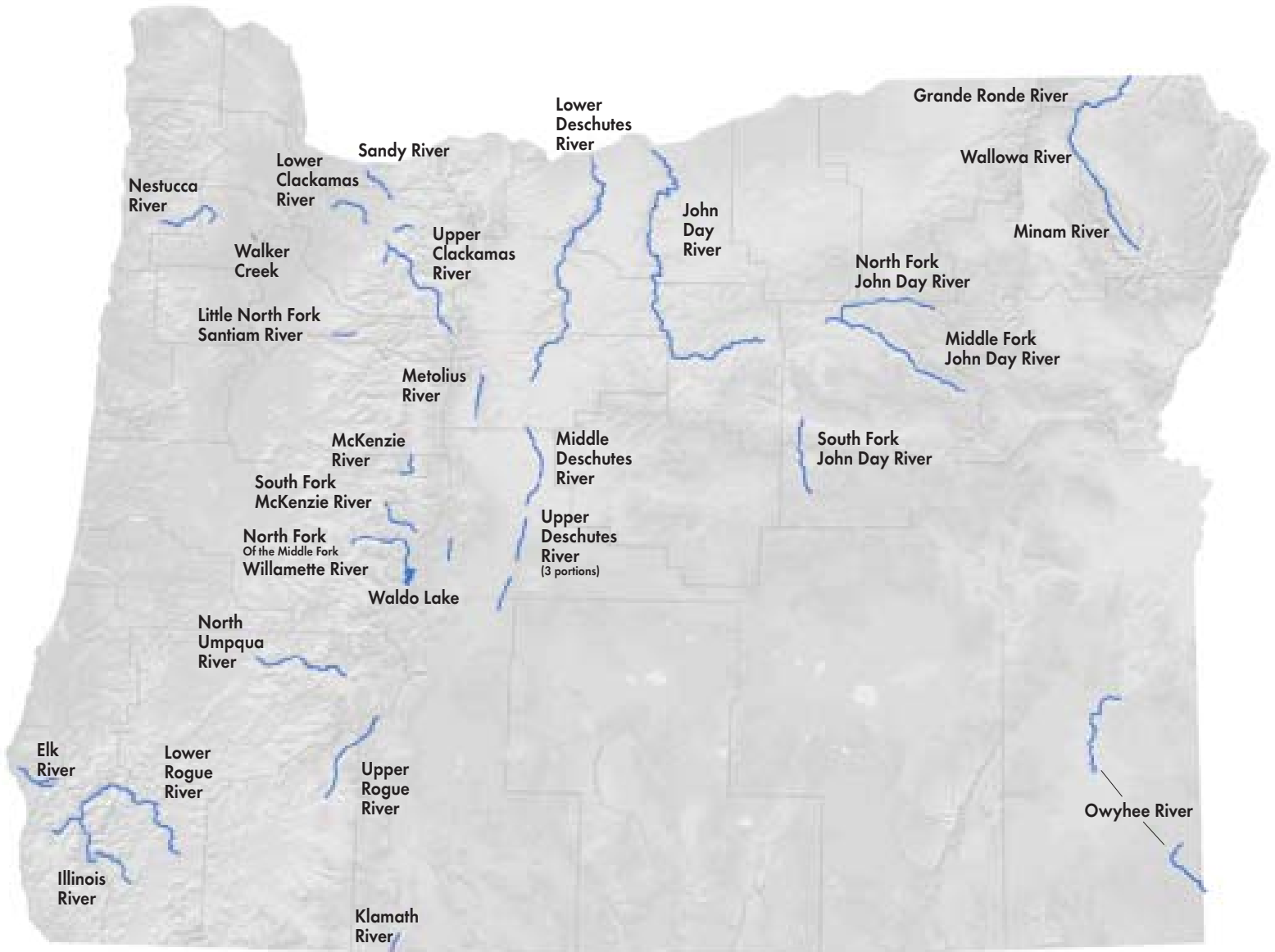
Q: My scenic waterway notification was denied. What are my options?

A: You may 1) wait one year from the original date of approval, and then begin the project as originally proposed, or 2) Agree to modifications to the proposal so that the project would not substantially impair the scenic beauty of the scenic waterway, or otherwise violate scenic waterway regulations. 3) Enter into further negotiations to establish a land use plan for the area.

Q: After receiving approval for my scenic waterway notification, I’ve decided to make some changes to my original proposal. Do I have to submit a new notification?

A: Yes, unless the changes are insignificant and conform to the original plan.

OREGON'S SCENIC WATERWAYS



Scenic Waterways Directory

Oregon's Scenic Waterways system originally included 496 free-flowing miles on segments of six rivers: the Deschutes, Illinois, John Day, Owyhee and Rogue, plus all of the Minam. A 12-mile segment of the Sandy River was added by Governor's designation in 1972; the Oregon Legislature designated a 12-mile stretch of the Clackamas River in 1975, the North Fork of the Middle Fork of the

Willamette River in 1983, all 6,672 acres of Waldo Lake in 1983, and a seven-mile portion of the Little North Fork of the North Santiam in 1985.

In 1989, the system doubled, thanks to Oregon voters, who passed an initiative supported by 55 conservation, sporting, outdoor recreation, religious and business organizations. The additions totaled 573 river miles.



Oregon Parks and Recreation Department

1115 Commercial St. NE

Salem, OR 97301-1002

www.oregonstateparks.org



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This publication is available in alternative formats on request.
Write to: OPRD, 1115 Commercial St. NE, Salem, OR 97301-1002.
Or call (503) 378-6305 or for the hearing impaired 1-800-735-2900.

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