



# Rulemaking Advisory Committee

Waterway Leases, Licenses, and  
Registrations (Division 82)

**December 11, 2024**







# Meeting Agenda

9:00 AM	Introductions
9:20 AM	Meeting 1 Follow-Up: Lease Revenues
9:50 AM	Background/Discussion: Lease Rates, Financial Assurances
10:50 AM	Break
11:00 AM	Background/Discussion: Application Fees
11:45 AM	Interested Party Comments
11:55 AM	Next Steps
12:00 PM	<i>Meeting ends</i>

***Meeting Goals:*** Provide background information about current lease revenues, lease rates, application fees, and financial assurances. Discuss proposed lease rates, application fees, and financial assurances.

# Zoom Protocols



Each person who wishes to speak will be asked to raise their hand.

- To raise your hand, click the reactions near the bottom of your screen and click “raise hand” or by pressing star 9 if you are on the phone.
- Will seek a balance of speaking time during discussions
- *For technical support, please message us in the chat.*
- Please keep your mic muted unless it is your turn to speak. Use of video is encouraged.
- We ask that all participants be respectful of each other and DSL representatives.



# Meeting 1 Follow-Up: Lease Revenues



# Oregon- Owned Waterways



Oregon's territorial sea  
Tidal waterways  
Navigable waterways  
Meandered Lakes

[Map link](#)

# Leases, by Use Category



Comm. M/M: 39.1% (164)

MI/MS: 20.7% (87)

Non-Comm. M/M: 32.7% (137)

Non-Marine Use: 7.4% (31)

# Leases, by Rate Method



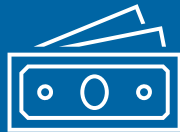
3% Gross: 8.1% (34)

Riparian Value: 21.5% (90)

Flat Rate: 70.4% (295)

Total: 419

# Lease Revenue Sources



Comm. M/M: 32.1% (\$498K)

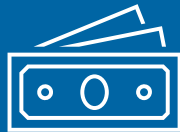
MI/MS: 47.4% (\$736K)

Non-Comm. M/M: 10.9% (\$168K)

Non-Marine Use: 9.7% (\$150K)



# Lease Revenue Sources



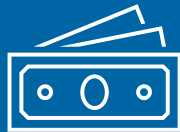
3% Gross: 3.8% (\$60K)

Riparian Value: 41.4% (\$643K)

Flat Rate: 54.8% (\$852K)

Total: \$1.55M

# What does revenue cover?



Application fees and lease revenues help to cover the Department's costs for overseeing uses of Oregon-owned waterways.

# Revenues & Expenditures

Year	Proprietary Revenue	Proprietary Expenditures	Difference (Proprietary)	ARM* Revenue	ARM* Expenditures	Difference (ARM)
2020	\$4.34M	\$1.54M	\$2.80M	\$5.65M	\$5.22M	\$433K
2021	\$3.92M	\$1.44M	\$2.48M	\$4.88M	\$5.28M	(\$399K)
2022	\$4.04M	\$1.94M	\$2.10M	\$5.81M	\$6.03M	(\$220K)
2023	\$2.97M	\$5.55M	(\$2.58M)	\$4.68M	\$10.44M	(\$5.76M)
2024	\$4.82M	\$1.67M	\$3.15M	\$6.25M	\$4.82M	\$1.43M
<b>5-yr Total</b>	<b>\$20.09M</b>	<b>\$12.14M</b>	<b>\$7.95M</b>	<b>\$27.27M</b>	<b>\$31.78M</b>	<b>(\$4.51M)</b>
<b>5-yr Avg</b>	<b>\$4.02M</b>	<b>\$2.43M</b>	<b>\$1.59M</b>	<b>\$5.45M</b>	<b>\$6.36M</b>	<b>(\$902K)</b>

*\* ARM (Aquatic Resource Management) revenues and expenditures include Proprietary revenues and expenditures.*



# Common School Fund



DSL is the administrative agency of the State Land Board, which oversees the lands Oregon was granted at statehood to help fund public schools, and the Common School Fund.

Every one of Oregon's 197 public school districts receives money from the Common School Fund every year.

School Year	Total Distributed to Oregon's Schools
2024	\$74.2 million
2023	\$72.2 million
2022	\$64.2 million

# Common School Fund



Today, DSL manages ~681,000 acres of school lands to produce revenue for the Common School Fund. Revenue generated by other DSL programs, including oversight of Oregon-owned waterways and the regulatory programs administering Oregon's Removal-Fill Law, also goes to the Fund.

Common School Fund interest earnings are part of the funding mix for DSL operations. But multiple DSL key performance measures and strategic initiatives are aimed at eliminating or reducing Common School Fund subsidy of our programs.



# Purpose of Today's Meeting





# Meeting Purpose



- Background will be provided on current lease rates, application fees, and financial assurances.
- Members will discuss the proposed lease rate calculation method, proposed increases to application fees, and added financial assurance requirements.

# OAR 141- 082-0305



- This rule outlines the methods, rates, and formulas used to calculate lease payments for new or renewing waterway leases.
- Proposed changes will streamline the methods used for calculating lease payments.

# OAR 141- 082-0306



- Currently, application fees are spread across Division 82.
- The proposed addition of OAR 141-082-0306 would add a section outlining all Division 82 fees (except waterway registration fees).



# OAR 141- 082-0330



- Currently, Waterway Registration holders are not required to obtain insurance or other types of financial assurance.
- Adding OAR 141-082-0330(2) would allow the Department to require the holder to obtain financial assurances (i.e., insurance, surety, or other type of FA).



## Rulemaking Background

- Rental rates for leases often do not accurately reflect the cost associated with the authorized activity or use of the submerged and submersible (S&S) lands.
- The Department is required to use the cheapest method for determining rent.
- Administrative costs associated with managing 3% leases exceeds other methods.
- Fees do not increase as costs to the Department increase.



## Objectives of Proposed Changes

- Create a single method for calculating rent.
- Charge a reasonable, market-based rate for use of public lands, factoring in the location and authorized activity.
- Remove the option for using gross revenue to calculate rent.
- Keep rates in line with inflationary increases.
- Mitigate negative impacts changes may have.





## Determination of Proposed Lease Rates

Review of CA, WA, and ID requirements

Major takeaway:

A variety of methods are used but rates were derived most often by using the adjacent or S&S land's value, revenue from the use, or a rate determined by the agency.



## Proposed Lease Rate Calculation

Factors used for determining rent:

The adjacent land value (ALV)

A rental rate (RR)

The area authorized for lease (AA)

$$\text{ALV} \times \text{RR} \times \text{AA} = \text{Annual Lease Payment}$$





## Special Considerations

- Rent can only increase by 1.5 times at renewal or reassessment.
- Changes would only affect new or renewing leases.



## How Changes Would Affect Revenue

- Median rent would increase less than \$300 (\$942 to \$1,200).
- Three quarters would pay less than \$3,300 (\$2,800, previously).
- Total revenue would have increased by roughly \$455K.
- Most change to Commercial and Noncommercial Marina/Moorage use categories.





## How Changes Would Affect Revenue, By Use Category

Comm M/M: 32.7% (\$718K)

MI/MS: 42.1% (\$845K)

Non-Comm. M/M: 14.9% (\$299K)

Non-Marine Use: 7.3% (\$147K)



## How Changes Would Affect Revenue, By Revenue Method

3% Gross: 4.6% (\$92K)

Riparian Value: 34.2% (\$688K)

Flat Rate: 61.25% (\$1.23M)

Total: \$2.01M

# Example #1

## 17452-ML



Clackamas County, Willamette River  
Commercial Marina & Moorage  
3% Gross Revenue

Last Rent: \$656.01



# Example #1

## 17452-ML



Considerations and Modifiers:

City Limits (+.50%)

ESH (+.75%)

Marina (+.75%)

Total: + 2.00%

# Example #1

## 17452-ML



ALV (\$20.78 per sq. ft.)

X

RR (5.00%)

X

AA (21,750 sq. ft.)

= \$22,598.25

Annual Lease Payment = \$1,200

# Example #2

## 20585-ML



Clatsop County, Columbia River  
Commercial Marina & Moorage  
3% Gross Revenue

Last Rent: \$5,907.69

# Example #2

## 20585-ML



Considerations and Modifiers:

Port District & City Limits (+.50%)

ESH (+.75%)

Coastal Zone (+ .50%)

Marina (+.75%)

Total: + 2.50%



## Example #2

### 20585-ML



ALV (\$0.50 per sq. ft.)

X

RR (5.50%)

X

AA (609,040 sq. ft.)

= \$16,748.60

Annual Lease Payment = \$8,861.54

# Example #3

## 16853-ML



Multnomah County, Multnomah  
Channel

Commercial Marina & Moorage  
Flat Rate

Last Rent: \$20,377.76

# Example #3

## 16853-ML



Considerations and Modifiers:

ESH (+.75%)

Marina (+.75%)

Total: + 1.50%

# Example #3

## 16853-ML



ALV (\$1.66 per sq. ft.)

X

RR (4.50%)

X

AA (572,814 sq. ft.)

= \$42,789.21

Annual Lease Payment = \$30,566.64



# Example #4

## 9961-ML



Multnomah County, Willamette River  
Marine Industrial & Marine Service  
Flat Rate

Last Rent: \$2,580.98

# Example #4

## 9961-ML



Considerations and Modifiers:

Port District and City Limits (+.50%)

ESH (+.75%)

Portland Harbor Superfund Site  
(+.75%)

Zoning (Industrial) (+.75)

Marine Industrial Use (+1.50%)

Total: + 4.25%

# Example #4

## 9961-ML



ALV (\$2.40 per sq. ft.)

X

RR (7.25%)

X

AA (251,341 sq. ft.)

= \$43,733.33

Annual Lease Payment = \$3,871.47

# Example #5

## 20876-ML



Clatsop County, Columbia River

Non-Marine Use

Riparian Land Value

Last Rent: \$1,516.45

# Example #5

## 20876-ML



Considerations and Modifiers:

Port District and City Limits (+.50%)

Coastal Zone (+.50%)

ESH (+.75%)

Non-Marine Use (+2.00%)

Zoning (UC Rural Industrial) (+.75)

Total: + 4.50%



# Example #5

## 20876-ML



ALV (\$6.37 per sq. ft.)

X

RR (7.50%)

X

AA (6,098 sq. ft.)

= \$2,913.32

Annual Lease Payment = \$2,274.68

# Example #6

## 10392-ML



Clatsop County, Columbia River

Non-Marine Use

Riparian Land Value

Last Rent: \$5,554.69

# Example #6

## 10392-ML



Considerations and Modifiers:

Port District and City Limits (+.50%)

Coastal Zone (+.50%)

ESH (+.75%)

Non-Marine Use (+2.00%)

Zoning (UC Rural Industrial) (+.75)

Total: + 4.50%

# Example #6

## 10392-ML



ALV (\$2.44 per sq. ft.)

X

RR (7.50%)

X

AA (9,583 sq. ft.)

= \$1,753.69

Annual Lease Payment = \$1,753.69

# Example #7

## 56916-ML



Lane County, Cleawox Lake

Non-Commercial Use

Riparian Land Value (min. applies)

Last Rent: \$471.24



# Example #7

## 56916-ML



Considerations and Modifiers:

Coastal Zone (+.50%)

Non-Commercial Use (+.50%)

Total: + 1.00%

# Example #7

## 56916-ML



ALV (\$0.02 per sq. ft.)

X

RR (4.00%)

X

AA (8,543 sq. ft.)

= \$6.83

Annual Lease Payment = \$1,200

# Example #8

## 44596-ML



Multnomah County, Columbia River  
Marine Industrial & Marine Services  
Riparian Land Value

Last Rent: \$33,049.14

# Example #8

## 44596-ML



Considerations and Modifiers:

Port District and City Limits (+.50%)

Marine Industrial Use (+1.50%)

Total: + 2.00%

# Example #8

## 44596-ML



ALV (\$0.43 per sq. ft.)

X

RR (5.00%)

X

AA (174,228 sq. ft.)

= \$3,745.90

Annual Lease Payment = \$3,745.90



# Discussion: Lease Rate Calculation







## Financial Assurance Requirements

- The Department is proposing adding financial assurance (FA) requirements for new and renewing waterway registrations.
- Requirements are intended to ensure structures over Oregon-owned waterways are protected from risks associated from being on a waterway.
- Currently, holders are not required to obtain insurance policies protecting against bodily harm, death, or property damage.



# Discussion: Financial Assurance Requirements





## Application Fees

Proposed increases to application fees and waterway registration fees are based on inflationary increases since January 2013, when Div. 82 rules were last updated.

New fees were set based on the minimum fee in the proposed fee schedule (\$500), except the Submerged Lands Enhancement Fund fee (\$100).





Photo: John Day River; by Dan Cary, DSL

General Process, Review, or “Step”	Brief Overview
<b>Application Received</b>	Application and fees are submitted for the use of land managed by the department.
<b>Completeness Review</b>	Staff checks application for completeness: approved use, application filled and signed, all attachments provided, information provided is complete, and fee, if applicable, was submitted.
<b>Preference Right &amp; Competitive Bid Process</b>	These two processes only apply to leases, regardless of applicable OAR. A riparian landowner (or someone holding a conveyance prior to Jan. 1, 1981) has a preference right to lease the submerged and submersible lands abutting their lands. When waived, an application will be sent out for competitive bid, following the requirements outlined in the applicable OAR.
<b>Public Review Process (PRP)</b>	Typically, an application is circulated for 30 days but this is at the department’s discretion (longer or shorter periods may be appropriate). Mostly reserved for new uses, but some renewals may require a PRP.
<b>Technical Review</b>	Staff review application, comments and any other information provided and make a recommendation to approve or deny the use as applied for. Staff may also request more information from the applicant at this point.
<b>Document Preparation</b>	If approved, staff create a draft WUA for review.
<b>Manager/Signatory Review</b>	Authorized signor reviews draft WUA. If no issues, staff send draft WUA to applicant for review.
<b>DOJ Sufficiency Review</b>	Legal review for any WUA with compensatory payment of \$250K or more (calculated over the term of the WUA).
<b>Execution</b>	When all other steps have been completed, authorized signor signs WUA, applicant receives their original copy, and staff close out file.



# Discussion: Application Fees







Columbia River / DSL Photo: Grey Wolf

## Interested Party Comments

Please raise your hand  
to speak.

Please keep comments  
limited to 3 minutes.



# Interested Party Comments



Use the "Raise Hand" feature to provide community input. Time is limited and we may not be able to hear from all of you today.

- To raise your hand, click the reactions near the bottom of your screen and click "raise hand" or by pressing star 9 if you are on the phone.
- You will be called in the order in which hands are raised.
- Please keep your mic muted unless it is your turn to speak.

## When it's your turn to speak:

- When your turn is coming up, the moderator will call on you to begin speaking.
- Please say your name, where you're from, and any organization you're representing.
- Please keep your remarks to **three minutes** and be respectful of each other and agency representatives. We will help track your time.



## What's Next?

*John Day River / Photo: Dan Cary*

- In the next week, a meeting summary will be sent to RAC members and today's meeting recording will be posted.
- Prior to each meeting, a meeting agenda will be sent.
- All meeting materials will be posted to DSL's Rulemaking website: [www.oregon.gov/dsl/Pages/rulemaking.aspx](http://www.oregon.gov/dsl/Pages/rulemaking.aspx)





# Thank You!

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*John Day River / Photo: Dan Cary*