



**OCEAN SHORE
ALTERATION PERMIT**

Application Approved with Conditions:



Application Denied:



Date: April 24, 2009

Applicant: Gregory and Grace Kamo,
Frank Foti

OPRD File Number: BA-654-09

County: Tillamook

Project Location: The properties are located at 48985 and 48995 The Point, Neskowin. Tillamook County Assessor's Map T5S, R11W, Section 25 CC, Tax Lots 6700 and 6800.

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

Project Description:

The project is located along a contiguous north and south line of riprap located in the residential development of "The Point" in Neskowin. Both properties face the confluence of Hawk Creek and Neskowin Creek where they empty onto the ocean shore.

The proposal seeks to add 5 vertical feet of riprap on the upper elevation of an existing riprap revetment on the subject properties. The existing shoreline protection structure was constructed under Emergency Permit BA# 442-99 after the properties experienced extreme dune erosion from storm waves and creek flooding. For some unknown reason, the top of the riprap constructed under BA# 442-99 was built approximately 5 feet lower than the adjacent rip rap revetment structure to the north. Due to recent erosion on the upper dune face and the potential for damage to adjacent riprap structures, the applicant is proposing to build a shoreline protection structure at bank height matching the level of north and south riprap revetments.

The total length of riprap placed on the ocean shore is 260 lineal feet. Riprap rock will average 3 feet in diameter, using smaller pit run rock and Mirafi 700x fabric material underneath as structure backing. The slope of the additional structure will vary between be 2H: 1V to 2.5H: 1V and the completed revetment will extend approximately 24 feet above beach level.

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

The project is proposed to be located



Seaward of the statutory vegetation line



Seaward of the line of established upland shore vegetation

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

Submitted plans: Attached (See Condition 4)

Not Applicable

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

Approves your application
for a riprap revetment.

Denies your application

Conditions:

1. Prior to construction, the Permittees or subsequent owners shall file with the Tillamook County Clerk, a Declaration of Conditions and Restrictions. A form is attached for your use in satisfying this condition. The permittees shall pay any filing and recording costs. Upon recording, certified copies shall be submitted to OPRD as proof of compliance with this permit condition. Failure to provide OPRD with said certified Declarations of Conditions and Restrictions shall nullify this permit and all authorizations contained herein.
2. Prior to construction, the Permittees shall deliver to OPRD, a cash bond, or other security acceptable to OPRD, in the amount of \$13,000.00, to ensure that all required conditions of the permit are met. If the permit conditions are not complied with by the permit expiration date (April 24, 2010) OPRD may undertake action to complete the work without further notice to the Permittee and may deduct any and all costs and expenses of accomplishing such work. Use of the cash bond or other security for such purposes does not preclude OPRD from pursuing any other legal remedies or enforcement action at its disposal to ensure that permit conditions are achieved.
3. Use of equipment or vehicles on the beach requires a separate permit from OPRD. Use of public beach access routes, construction of any roads or other temporary access improvements, and timing of inspections shall be subject to conditions of the Equipment Access Permit. Contact Tony Stein at (541) 265-9871 prior to construction for the necessary permit.
4. For the purposes of covering the upper portion of the revetment with sand, use of on-site material shall be limited only to sand or other material excavated from the upper bluff. All other sand used for covering the upper portion of the riprap revetment must be hauled from off-site, be clean and free of invasive plant material.
5. The Permittees shall be responsible for any Tillamook County Department of Public Works permits or approvals for use of the Carlton Street public access. During construction activities, the beach access may not be blocked and will allow for safe emergency or pedestrian travel onto the ocean shore. Upon completion of the project, the Carlton Street beach access shall be returned to its pre-existing condition.
6. The project shall be completed prior to April 24, 2010. If it appears that, due to unforeseen circumstances, the project cannot be completed by the expiration date, the Permittees or authorized representative(s), may request a permit extension. A time extension may be granted based on the submission of a revised construction schedule.
7. Upon completion of the project, the beach shall be cleared of all rock debris, or other debris associated with the riprap construction, and the beach shall be returned to its pre-existing condition.
8. The Permittees shall be responsible for obtaining any required permit approvals from the U.S. Army Corps of Engineers, if applicable to this project.
9. The Permittees shall be responsible for maintaining the revetment. This includes retrieving and replacing rocks or other materials moved or damaged because of the ocean or any other cause. Failure to maintain the revetment, where such failure causes a public safety hazard or detriment to ocean shore resources, may cause appropriate legal action to be pursued to ensure compliance with this provision.

10. In no event shall the issuance of the permit be construed as a sale, lease, granting of easement or any form of conveyance of the state recreational area, ocean shore or submerged lands.
11. The Permittee shall comply with the provisions of ORS 390.235 through 390.240, ORS 358.905 through 358.955 and OAR 736-051-0060 through 736-051-0090 as these statutes and rules affect the discovery, excavation, salvage, removal and disposition of archaeological resources and the permitting requirements for these activities as they affect archaeological sites on public and private land. If archeological objects are encountered during the project, all work must stop immediately, and work may not proceed until an archeological permit is issued under ORS 390.235
12. This approval does not affect any obligation the Permittees might have to other persons or agencies, local, state or federal.
13. If the Permittees fails to comply with the conditions provided herein and otherwise imposed by OPRD, OPRD shall exercise its authority under Oregon Revised Statutes 390.661 through 390.676; 390.990 through 390.995; and the provisions of OAR 736-020-0200 to cease any further activity by the Permittee on the ocean shore except as directed by OPRD. In such circumstances OPRD may assess a civil penalty according to the provisions of OAR 736-080-0005 through 736-080-0070.
14. The Permittees shall agree to save and hold harmless the State of Oregon, the Oregon Parks and Recreation Commission, and its members, and all officers, agents and employees of the Oregon Parks and Recreation Department, from any claim, suit or action whatsoever for damages to property, or injury or death to any person or persons due to negligence of permittee(s), their officers, agents or employees, and arising out of the performance of any work or project covered by the granting of a permit.
15. In issuing this permit, OPRD makes no representation regarding the quality or adequacy of the permitted revetment design, materials, construction, or maintenance, except to approve the project's design and materials, as set forth in the permit application, as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapter 390 and related regulations.

Jeff Farm, Ocean Shores Program Manager
Oregon Parks and Recreation Department

Cc: John Potter, Assistant Director of Operations
Valerie Soilihi, Tillamook County
Paul Klarin, DLCD
Karla Ellis, U.S. Army Corps of Engineers
OPRD/Region 1 Office

Appeal Process

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