

NAVIGABILITY

ADDITIONAL INFORMATION

Navigability:

Department of State Lands
503-986-5200
www.oregonstatelands.us

Boating Regulations:

Oregon State Marine Board
503-378-8587
www.boatoregon.com

Hunting and Fishing Regulations:

Oregon Department of Fish and Wildlife
503-947-6000 / 800-720-6339
www.dfw.state.or.us

State Parks and Scenic Waterways:

Oregon Parks and Recreation Department
503-986-0707 / 800-551-6949
www.oregonstateparks.org



Public Use of Oregon's Rivers and Lakes

*Your rights to use the surface,
bed and banks of
Oregon's rivers and lakes.*



**OREGON DEPARTMENT OF
STATE LANDS**



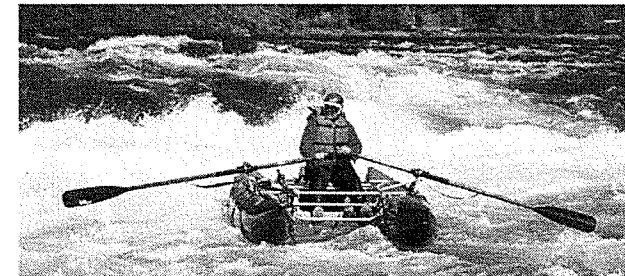
**OREGON DEPARTMENT OF
STATE LANDS**

Ownership and Public Rights

This brochure provides a brief introduction to the activities allowed on the surface, bed and banks of Oregon's rivers and lakes.

What you can do on a waterway, or along the waterway below the line of ordinary high water, depends in part on whether land underlying the waterway is publicly or privately owned.

This issue has become very important as the state's population has increased, and as more people are living next to waterways and using them for recreation and other activities.



The History of Oregon's Waterways

When Oregon became a state in 1859, all the land underlying waterways that were used, or could have been used, in their natural condition to transport people and goods, became state-owned.

However, specific waterways, or portions, that met this navigability standard were not identified. State law (ORS 274.040) authorizes the State Land Board to determine if a waterway is navigable for title.

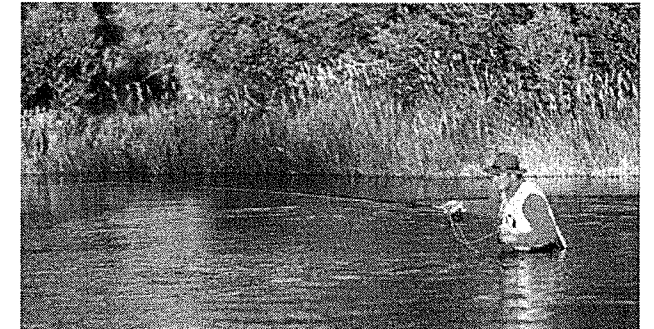
The state also became the owner of all land underlying water affected by the tide, as well as many lakes.

"....all the navigable waters of [the] State, shall be common highways and forever free, as well as to the inhabitants of said State as to all other citizens of the United States...."

*Section 2., Act of Congress Admitting Oregon
into the Union, February 14, 1859*

Navigability

State-owned waterways are commonly termed "navigable." The following definitions will help you understand what this and other navigability concepts mean.



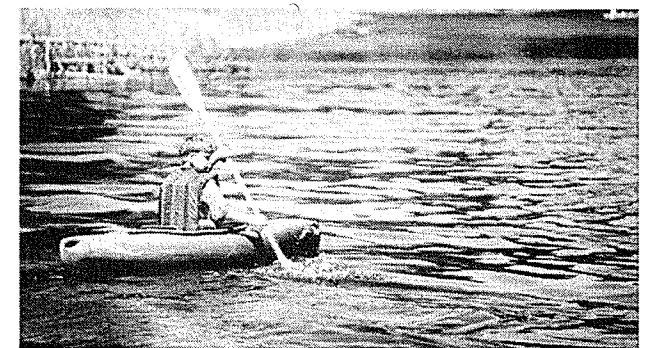
Line of Ordinary High Water means the line on the bank or shore to which the high water ordinarily rises annually in season. It is **not** the flood line.

Line of Ordinary Low Water means the line on the bank or shore to which the low water ordinarily recedes annually in season.

Submerged Land or Bed is land that lies below the line of ordinary low water.

Submersible Land is land that lies between the line of ordinary high water and the line of ordinary low water.

Navigable for Title means the ownership of the waterway or lake, including its submerged and submersible land, passed from the federal government to Oregon at statehood.



OREGON DEPARTMENT OF STATE LANDS

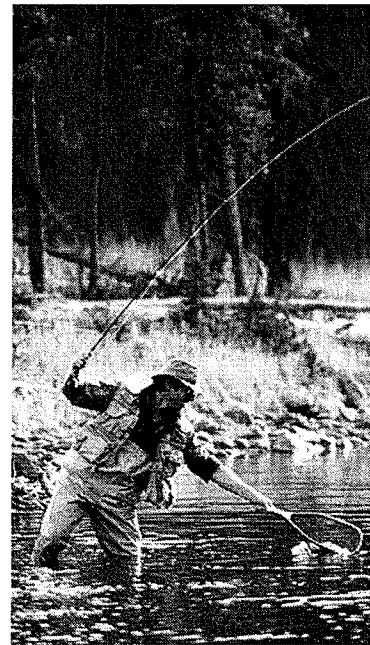
On a Navigable River or Lake:

You may use any navigable waterway, as well as the submerged and submersible land along it, for any legal activity. For example, you may pull your canoe or kayak up on the land below the line of ordinary high water for a short period of time. Similarly, below the line of ordinary high water, you may picnic, walk, fish, play or sunbathe on the land.

However, you are not allowed to go above the line of ordinary high water, unless it is necessary to travel up or down the waterway, nor may you cross privately owned land to get to the river or lake. To do so constitutes a trespass for which law enforcement officers may cite you.

In addition, you are not allowed to use the land in a way that you would if you owned it. That is, you cannot build a structure, place a dock, operate a business, put up fencing or prevent other people from entering the area you are using on submerged or submersible land.

You may only use the submerged and submersible land underlying the segment indicated as navigable in the ways described in this brochure.



Oregon Navigable Rivers*

The following table lists some of the tidally affected and non-tidal portions of rivers in Oregon that have been determined to be navigable for title through legislative, judicial or administrative proceedings. None of the waterways listed has been determined to be navigable over its entire length.

Waterway	Segment
Chetco River	RM 0 to "at least" RM 11 (about one mile upstream from the mouth of Elk Creek)
Columbia River	RM 0 to RM 309 (Oregon-Washington border)
Coos River	RM 0 to RM 4.5 (mouth of the Millicoma River)
Coquille River	RM 0 to RM 36.3 (confluence of the North Fork and South Fork)
John Day	RM 10 (Tumwater Falls) to RM 184 (Kimberly)

Waterway	Segment
Klamath River	RM 208 to RM 233 (California border to Keno)
McKenzie River	RM 0 to RM 37 (Dutch Henry Rock)
Rogue River	RM 0 to RM 68.5 (Grave Creek)
Sandy River	RM 0 to RM 37.5 (confluence of the Salmon River)
Snake River	RM 176 to RM 409 (Oregon-Idaho border)
Umpqua River	RM 0 to RM 111.5 (confluence of the North and South Forks)
Willamette River	RM 0 to RM 187 (confluence of the Coast and Middle Forks)

RM = River Mile

*This list is current as of 12/07; other waterways may be declared navigable in the future.

A complete list of the tidally affected segments of rivers and navigable lakes in Oregon is available on the Department of State Lands' Web site: www.oregonstatelands.us (click on Waterway Navigability).

On a Non-Tidal River or a Lake, Where No Navigability Determination Has Been Made:

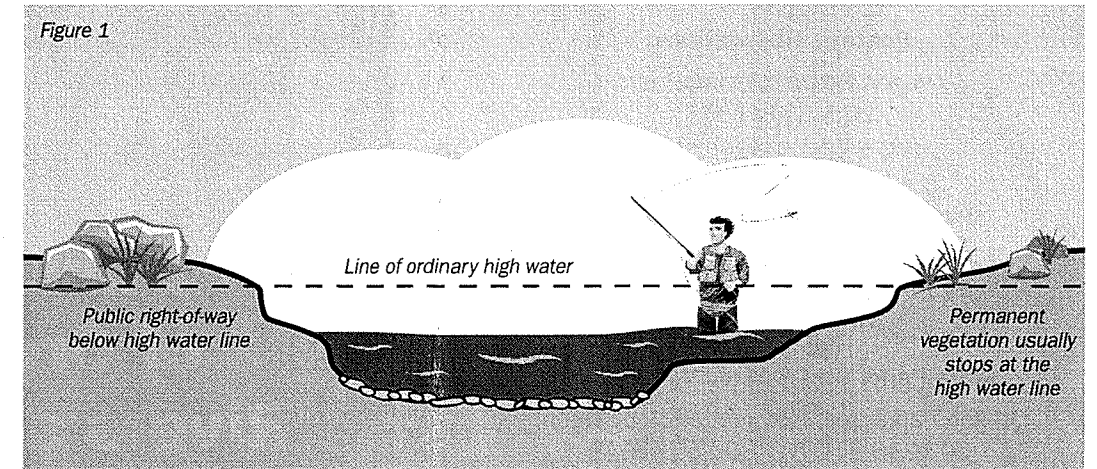
Many of Oregon's waterways have not yet had a navigability determination. In 2005, the Oregon Attorney General issued a formal opinion describing what public rights exist to use waterways, even if they are not title navigable (not owned by the state).

This opinion relied on numerous Oregon Supreme Court rulings between 1869 and 1936, and states that the public is allowed to use the surface of a waterway in Oregon for any activity unless the waterway isn't wide, deep or long enough for a boat to pass along it, or unless the activity is illegal. Allowed uses include fishing, navigation, recreation and other activities requiring the use of water.

For example, this means you may swim in a waterway that is large enough to boat in. It also means that if the waterway is large enough to boat in, you may fish. However, be sure to check the Oregon Department of Fish and Wildlife's regulations to see when and how you may fish from a boat on any waterway or lake.

Remember: This opinion reflects the Attorney General's advice to the Department of State Lands. It has not been fully tested in the courts. If you decide to use a waterway that has not been determined to be navigable, you risk a possible citation for trespass.

Additionally, the opinion states that you may have the right to walk on the land above the line of ordinary high water in the least disruptive or damaging way possible, using the shortest and most direct route available, if it is necessary to travel up or down the waterway.



Determining the Line of Ordinary High Water

The ordinary high water line is defined by Oregon state law as a line on the bank made by the water when it rises to its highest level each year to the limit of upland vegetation. It is not the flood line. Figure 1 shows how the line of ordinary high water is established.

Be Respectful!

If you use Oregon's rivers or lakes for recreational purposes, be respectful of landowners and their private property rights.

- Get the landowner's permission to use private property or water structures such as docks.
- Never cross private property with a "No Trespassing" sign.
- Never leave your litter behind or damage private property – clean up!
- Obey all laws concerning the use of publicly owned land, fire, firearms and alcohol consumption.