River Access Perspective Nov 1, 2010

Background: River use and access has been a longstanding contentious issue. While cumulative legal rulings have clarified the meaning of "Title Navigability", only 12 rivers in Oregon have been formally designated as such. Litigation was required to establish this status on the Sandy, John Day and upper Rogue rivers. If such litigation is required for each of the estimated 100 navigable rivers in Oregon, the cost to the state is estimated at $50,000 per river and the process described as "excruciating and uncertain". Failure of Senator Bates' OR Senate Bill 1060 in the 2010 session illustrated the difficulties to be expected in efforts to resolve these issues.

Following this, Kate Brown, Secretary of State, has organized a River Users Workgroup. Members include reps from various agencies, multiple private landowners, and Tom Wolf representing TU.

Its stated goal is to seek direction for the river user issue during the 2011 legislative session.

Issues discussed to date include debate over whether an access program or users management program is needed. Programs addressing access information include the State Parks Water Trails program, which to date includes guides for the Willamette River completed in 2007, and a recently completed guide for the Sandy River.

Other active topics include discussion of the various state agencies roles and responsibilities, legal issues (Title Navigability and Public Trust Doctrine, and public use common law easements), and funding challenges. Secretary Brown would like the group to agree on a set of rivers for starting point legislation in 2011.

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It should be recognized that resolving these issues by legislation carries the risk that special interest lobbyists can unduly influence the legislative process. River users must be prepared to be activists as the legislative process unfolds.

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