

Oregon Parks and Recreation Commission

April 24, 2024

Agenda Item: 9a

Action

Public Comment Allowed: **Yes**

Topic: Request to Open Rulemaking 736-040-0070, Correction of Maupin Boundary
Description

Presented by: Katie Gauthier, Government Relations and Policy Manager

Background:

A proposed development in the Lower Deschutes State Scenic Waterway corridor raised a question regarding the statutory boundary of the Deschutes River State Scenic Waterway as it relates to the city of Maupin. This proposed development identified a discrepancy in the dates for the boundaries of the city limits between statute and rule.

The statute that defines the Deschutes State Scenic Waterway (ORS 390.932) says: “There is created the Deschutes River Scenic Waterway Recreation Area consisting of the segment of the Deschutes River scenic waterway under ORS 390.826 that is designated as the segment from immediately below the existing Pelton reregulating dam downstream approximately 100 miles to its confluence with the Columbia River, **excluding the City of Maupin as its boundaries are constituted on October 4, 1977.**” (*emphasis added; note year*)

The administrative rule (OAR 736-040-0070 [3]) says: “(a) ... The shoreline and related adjacent lands opposite the City of Maupin, **as its boundaries were established on December 3, 1970**, is likewise classified as a River Community Area.” (*emphasis added; note year*)

The Oregon Transportation Commission adopted OAR 736-040-0070(3) in June 1972, when the city boundary did not encompass the lands on the other side of the river from the main part of town. The rule was accurate when it was passed in 1972: the scenic waterway at that time did include the bank opposite Maupin, because it was outside the city limits at the time. The city annexed this area (and adjacent lands) in September 1973.

Then in 1987, HB 3019 was enacted creating statutory language that changed to exclude lands from the scenic waterway within the City of Maupin boundary it existed on October 4, 1977. The statutory change eliminated sections of both banks of the river through Maupin since the opposite bank was annexed in 1973. The new statute eliminated all the River Community Area in Maupin described in the last sentence of OAR 736-040-0070(3)(a).

The date referenced in rule was not updated after the legislation passed by either the Oregon Transportation Commission or subsequently the Oregon State Parks and Recreation Commission.

To correct this error, staff request permission to open rulemaking to remove the reference to a date in the description for the city of Maupin boundaries.

Prior Action by Commission: 736-040-0070 was last updated by the Commission in 2018 to allow for additional approved portable toilet options.

Action Requested: Open rulemaking for OAR 736-040-0070 to remove outdated references to the date of boundaries for the city of Maupin.

Attachments:

Attachment A- Marked Copy

Attachment B- Map outlining boundary changes.

Prepared by: Katie Gauthier