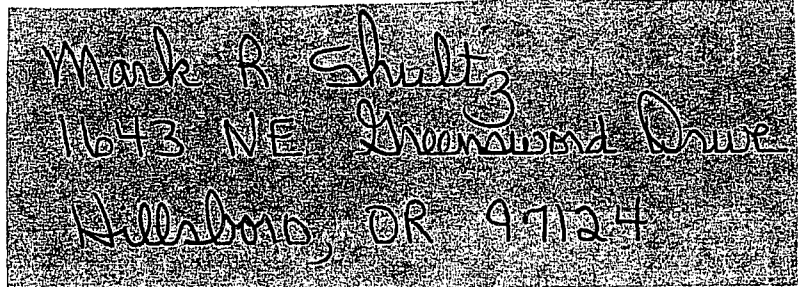


September 18, 2006

DEPT OF STATE LANDS
RECEIVED

2006 SEP 26 P 2:33

Steve Purchase
Asst. Director of Lands
Department of State Lands
775 Summer St., NE, Suite 100
Salem, Oregon 97301-1279



Dear Steve,

I received your notification September 8, 2006 regarding a potential navigability study for 2 miles of Three Rivers . I also have Mr. Mann's letter and the ORS statutes.

You should know that I along with my brother and two sons own a 10.75 acre property located downstream from the Cedar Creek Fish Hatchery and between Three Rivers and Highway 22. The property runs under and along Three Rivers for approximately 2100 feet and is located within this proposed study area requested by Mr. Mann. Green Diamond Timber owns the property directly across and under Three Rivers from us.

All four owners of our property will be responding to you about this proposed navigability study. In my opinion, this proposed study should not take place. I have reviewed several old records concerning Three Rivers and in each instance Three Rivers was not mentioned as a highway of commerce over which trade or travel would have been; nor was Three Rivers used as a customary mode of trade and travel on water; nor was Three Rivers used or was susceptible of being used for commerce in its natural and ordinary condition. Three Rivers is just too small to be used for commercial gain such as log and lumber traffic, floating devices for guided fishing trips and the like. There have been attempts to use drift boats on Three Rivers but not consistently and not without boat damage and personal risk.

I noted in several documents that a trail was developed from Grand Ronde to Hebo to bring in supplies by horse and on foot. Indians would use this trail to trade obsidian for clams and fish. The trail was not used after 1882.

Settlers built a wagon road along the Little Nestucca River instead to reach the Nestucca Valley. Trade goods and other supplies came in by trail and wagon road rather than trying to use Three Rivers. I also discovered in a navigability study (a copy of which is attached) that logs were floated down the Nestucca River during high water. There was a saw mill at Woods. Some logs were floated down river from Beaver. A witness stated that logs rafts floated by Cloverdale as late as 1924. The state could lay claim to the bed of the Nestucca River up to where Beaver Creek flows into the Nestucca River. This earlier navigability study does not mention Three Rivers as a source of travel or for commerce for any purpose. We have reviewed the following documents and found nothing about Three Rivers concerning navigability.

1. *Tillamook History* 1975
2. *Tillamook Memories* 1972
3. *Till Broad Daylight* by Warren Vaughn
4. *Tillamook Land of Many Waters* by Ada Orcutt
5. *Tillamook Lest We Forget* 1979
6. *Indian Trail from Grand Ronde to Hebo* by Leonard Whitmore
7. *Oregon for the Curious* by Ralph Friedman. We could not find this document at the Tillamook County Museum but we know it did verify the existence of a trail from Hebo to Grand Ronde.

I want to sum up my comments by addressing the Mann letter. The statements made in the letter are fraught with inference and hearsay and cannot justify expenditure of state funds or private funds. He insults my intelligence with futile attempts to spin away from his outright inaccurate reporting.

There is no abundant salmon run. Rhoades Pond volunteers and ODF&W released 100,000 fin clipped fish into the Nestucca and Three Rivers. If it wasn't for this effort, Three Rivers would not have a salmon run. As it is, 28,000 of these fish are designated for Three Rivers and about 3 to 4 per cent of these fish reach Three Rivers as adult salmon. Secondly, I have witnessed many fishermen that have public fishing access to Three Rivers on Green Diamond land. They fish from the middle of the river without problem in fall, winter and spring. There are no private fishing clubs involved with my land nor will there be as long as I am alive. I am offended by Mann's inference that we collude with OSP against fishermen. We co-

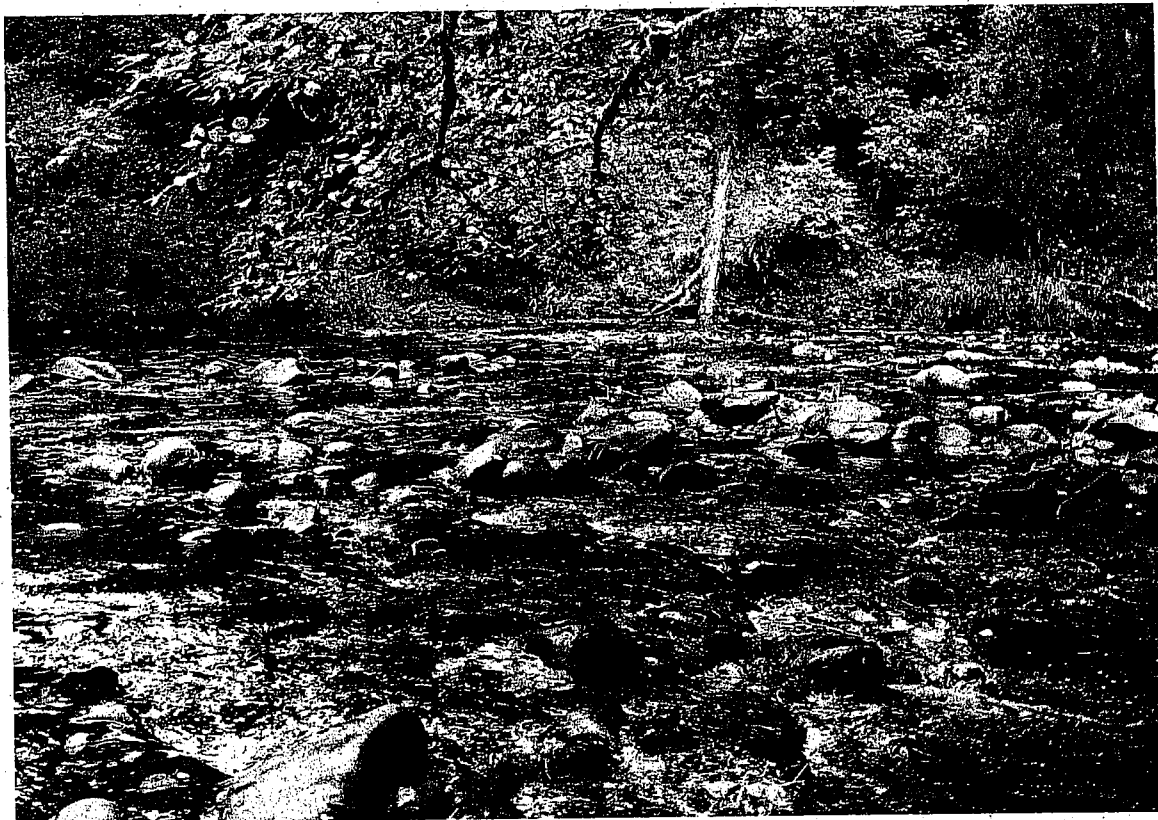
operate with OSP and ODF&W in an attempt to stop fish snagging conducted by trespassing fishermen on our land.

I will not repeat what my brother and sons will write about. We like our privacy and we get tired of fixing fishermen destroyed fences and gates, picking up fishermen garbage and replacing no trespassing signs. It would only get worse for us if they have free run of the river bed and banks. I am attaching pictures of our Three Rivers frontage showing that the river is too small for commerce and water travel.

Sincerely,

Mark R. Shultz

c: Enclosure/Navigability Study - South County/Copied by Ruby Fry-Matson-Tillamook County Museum





NESTUCCA

Though the second longest of the three rivers under consideration in this report, the Nestucca had far less navigable use than the other two. This was partly accounted for by the difficulty of access to its small estuary. J. R. Savage of the U. S. Corps of Engineers described the early shipping and its problems in his 1892 report:⁷⁸

As nearly as I could ascertain, the first vessel to enter the Nestugga since white settlers came into the country was a small sloop of 10 or 15 tons, but she was wrecked just inside the reefs of rocks near the entrance while attempting to go out with only one man on board. This was about 1882. The steam schooners Kate and Anne and A. B. Fields came in not long after in regard to establishing the cannery. The Polar Bear, Rosie Olsen, Louis Olsen, and the W. H. Harrison are among the vessels which have entered the river.

It is during the winter months, when the roads are bad, that goods are transported by water. But of late years not more than three or four steam schooners cross the bar at the mouth of the Nestugga during the course of a year, and even then considerable difficulty is experienced in getting any vessel to bring in freight on account of the danger of crossing a shoal and comparatively unknown bar. Such vessels as can enter usually carry from 30 to 50 tons of freight, and they do not go up above the cannery, about 1 mile inside of the bar, on account of the shoalness of the river, but the goods are unloaded on the wharf or onto scows or small boats and thus taken up to their destination, usually Woods, which is about 3½ or 4 miles above the cannery.

The second inhibition to use of the river for transport was the Nestucca Burn which had removed much of the forest cover of the region between 1850 and 1860.⁷⁹ Despite these disadvantages, Krebs Brothers, who were running a sawmill at Woods near the mouth of the Nestucca as early as 1890 and probably before, received logs down the river. In December 1890, they had a logging camp near Hebo and used the river to float their logs; in January 1893, they "received a fine lot of logs from Beaver Creek [RM 15.3] in recent high water."⁸⁰ An ancient cutting is still visible on Beaver Creek below Hemlock. Six years later "Beaver" reported, "The recent rains have swollen the Nestucca hence

J. R. Finley rolled about 100 logs in the river for Crebs Bros. saw mill at Woods." (Fig. 14) Earlier "Beaver" had noted that Dan Nickels of Bear Creek (some 3 miles up Beaver Creek at Hemlock) had lost a boat full of lumber in a storm.⁸¹ As late as 1924, Mrs. Clyde Thayer recalls seeing log rafts coming down the Nestucca past Cloverdale.⁸²

Currently the Nestucca is a very popular sports fishing river from as high as River Mile 24 but concentrated from River Mile 20 into tidewater. Dave Heckeroff of the State's Department of Fish and Wildlife estimates the river in these reaches sustains 25,000 boat days of use per year at the present time.⁸³

SUMMARY

On the basis of vessel navigation, rafting and log drives, the State of Oregon has claim to the bed of the Nehalem River to its RM 84 at Pittsburg. On the North Fork the State has claim to the bed of the lower 11 miles (7 miles above Aldervale) on the basis of early log drives which were accomplished on the regularly recurring winter freshets before the installation of splash dams.

For over two decades the Necanicum below River Mile 13 was used for the commercial flotation of sawlogs. On the basis of this usage the State has a claim to the bed of the Necanicum below that point which is about 5½ River Miles above Cannon Beach Junction.

Log drives on the Nestucca also give the State claim to the bed of that river from Beaver (RM 15.3) to its mouth.