

DIVISION OF STATE LANDS
M E M O R A N D U M

October 8, 2003

TO: The Honorable John A. Kitzhaber, Governor
The Honorable Bill Bradbury, Secretary of State
The Honorable Randall Edwards, State Treasurer
FROM: Ann Hanus Director
SUBJECT: John Day River Title Navigability Study Recommendation

The Division is amending its recommendation to the Land Board to limit the study segment to the area to River Mile 10, rather than from River Mile 0, as it appears in the current agenda item. We realized (and some of you pointed out) that we had not discussed the River Mile 0 issue in the agenda item and that some in the public might call 'foul' for our not adequately disclosing that detail. Rather than create an opportunity for confusion and suspicion, we would rather go with a recommendation that calls for the study to cover the segment included in the Steelheaders' request (i.e. River Mile 10 to River Mile 184).

The river below Tumwater Falls at River Mile 10 to the Columbia River has become a part of the reservoir behind the John Day dam. The bed of the John Day River as it was in 1859 has been inundated. Much of the reservoir shoreline is in public ownership or the Corps of Engineers has acquired flowage easements over the remaining private land. A navigability study over this reach would only serve to resolve the navigability question. There is no other overriding reason. There is an economy/efficiency of effort opportunity (i.e. covering the lower 10 miles in the study produces no more work or controversy than that required to do the upper 174 miles).

Below is the revised recommendation that we will distribute at the Land Board meeting. Thanks for your patience.

RECOMMENDATION

The Division recommends the Board:

- a. Find that there is broad and substantial public interest to justify a navigability study of the John Day River from its confluence with the Columbia River (River Mile 10) to Kimberly (River Mile 184);
- b. Direct the Division to initiate the study immediately following the February 2003 Board meeting;
- c. Request the navigability/public access work group to report its progress to the Board at the Board's February 2003 meeting; and
- d. If the work group presents to the Board at its February meeting a consensus set of written principles or legislative concepts, the Board shall delay the study for 120 days.