

## **SUMMARY OF COMMENTS RECEIVED CONCERNING THE CONDUCT OF A ROGUE RIVER NAVIGABILITY STUDY**

### **Introduction**

In November 1997, the Division of State Lands (Division) gave public notice that it had received a navigability study request for the Rogue River from Timothy R. Thompson, Josephine County District Attorney. In the notice, the Division requested public comment concerning the navigability study request. The close of the public comment period was set as January 16, 1998.

The Division received 105 letters during the comment period. Of these, 35 were in support of, and 50 were against conducting a navigability study. Twenty of the letters either were requests for additional information, or expressed no opinion whether such a study should be conducted.

The following comments were taken from the letters received, and are believed to be representative of the public concerns on a variety of navigability study-related issues.

### ***Advantages to riparian landowners:***

- “We have lived on the Rogue River in two different locations for 20 years. From first hand experience we can say that the present disparity in property lines along the river – (or in the middle of it!!) creates many “sociological” problems -- downright enmity. We have owned the property that only goes to the average high water mark but nearby people owned to the middle of the river and went to great lengths to keep trespassers off. To begin with, owning to the middle of the river seems pretty silly and needless - especially as the river has a way of changing course. Besides that it deprives the public of access to what we regard as a Godgiven gift – a marvelous river. Unless you go door to door along the river you will never know how many unreported examples of conflict have occurred because of this crazy inconsistency in the law. Please DO ADDRESS it.”

### ***Alternatives to a navigability study:***

- “Yes, let us together address problems and issues in a public forum of landowners, sportsmen, raft companies, etc. Let those who wish access ask for it!! This way, they are accountable for their actions and based upon the respect they show for the land is their ticket back.”
- “Because of the adequacy and volume of “public” riverfront land in Jackson and Josephine County, there can be no real justification, in the “public interest, for a navigability study. If specific areas become enforcement problems for the Josephine County District Attorney’s Office, then possibly the specific locations should be

subject to “public hearings” on the problems to allow the public to work out the issues. If it potentially involved a “taking” then the specific property owners involved should be part of negotiations in the matter. If the specific area problems cannot be resolved, then a court case is probably appropriate. Both Jackson and Josephine Counties have gone overboard to provide maximum public access to waterways. If the public wants more access, then they should be willing to pay for it.”

- “Yes, there are other ways to address problems, but only a definitive study will produce the property boundary answers necessary to resolve the many and varied conflicts along the bed and banks of the Rogue River within your study boundaries. I have confidence in District Attorney Tim Thompson that he would not make such a request unless it were necessary for issue resolution for the benefit of the residents and businesses of Josephine County as well as the many visitors who travel the Rogue River.”
- “Yes! Abide by the rulings of the United States Supreme Court. “The Supreme Court has ruled that “rivers that are navigable in fact are navigable in law,” and that “navigation” includes canoeing, kayaking, and rafting. And that the banks of navigable rivers are public land up to the “ordinary high water mark”. Quoted from the National Organization for River, informational bulletin. When Oregon became a state, the Federal Government granted to the state a public trust. The Act for Admission of Oregon into the United States on February 14, 1859 states: “Said rivers and waterways and all navigable waters of the said state shall be common highways and forever free as well to the inhabitants of said state as to all citizens of the United States without tax, duty, import or toll thereafter.”” Taken from a document, revised 1/27/97, by Larry Beaver on behalf of the Coalition of River Users.”
- “Rather than conduct a navigability study on this section of the Rogue River, I suggest that river recreationists be encouraged, thru education and enforcement to be good stewards of this beautiful Rogue River resource.”
- “Other ways? Certainly! Here are a few: (1) Contact fishing, rafting, and canoeing clubs, most will be eager to have a presentation on owner’s rights and river etiquette. (2) Meet with the guides, outfitters, and most importantly, river-area rental outfits for training suggestions for river users. (3) Station people at popular launches to provide a presentation on owner’s rights and river etiquette. These could be volunteers similar to the camp hosts in our parks. (4) If these steps are still not satisfactory, implements to a permit system for the problem-area sections, many other river/lakes has shown that the amount of responsibility is much greater when people are on the water under a permit.”
- “Yes, there are other ways, than a formal navigability study, to address the problems. The study will do nothing to address the problems. Parks along the river from Grants Pass to lost creek Dam have no phones, No trash cans near boat ramps if at all, There are many along the river with no facilities at all. There is a old State park on lampman road, Gold Hill. Oregon. Some use this park but river access is overgrown, Drinking fountain does not work, No trash cans, No phone, No rest rooms. These problems are from recreationists using the banks of the river to throw their trash or as restrooms or a need to use a phone. The State Parks Department should fix up old

parks add rest rooms put in some pay phones, Put in some trash cans, Put in some drinking fountains in the parks along the Rogue River.”

- “As far as other ways than a formal study, I would like to think that somewhere in the past 100 years this situation has probably been studied numerous times and I don’t think another study is justified or necessary.”
- “It is recommended that the status quo be kept in place and that access to the river be with property owners permission as is the case with hunting on private property.”
- “People involved in confrontation should establish a dialogue.”
- “Let the people decide.”
- “The alternative to this study and all other such studies is for the State of Oregon to find a way to acknowledge that the Federal Courts have been correct all along and that those waterways that meet the federal court standards for navigability are navigable and the bed and banks fall under the Public Trust. ORS 274.400-417 is really a waste of time and not a good approach to this issue but it is the only way to proceed under current state law. This study should proceed.”
- “Other ways to address the issues including educating property owners, recreationists and law enforcement of the private ownership of stream banks and beds of non-navigable waterways. This need is no better illustrated than in an article published in the Grants Pass Daily Courier. Tax officials, real estate and title companies have volumes of current instructions and procedures and need to understand ownership, be it on top a mountain or along a stream. The way to avert conflicts would be for recreationists to abide by existing laws, to include the Oregon Sport Fishing Regulations that clearly state that it is unlawful to angle on private land without permission. Public access to the Rogue River is outstanding. There is not time to fish all available spots.”
- “Have the District Attorney and the affected Police Departments set up some type of River Patrol to avert conflicts. The patrol could be similar to the River patrol performed by the Sheriff on our section of river. It works well for us.”
- “Have public meetings where the concerned land owners and the recreationists could resolve their differences and come to a meeting of the minds. It could just be that the recreationists are not aware that there is a problem and need to be told.”
- “Post the rules necessary to resolve the problems and issues at each boat dock and reasonable river access so the recreationists will know what is expected of them. This is done with the rules and regulations for fishing, so why not the rules of conduct and issues brought up by the District Attorney. I’m sure that if people knew of these concerns they would move to correct them.”
- “Have the rules and regulations posted at the counters of the facilities where people purchase their fishing licenses, salmon tags, etc., also where they rent or purchase boats or rafts so that everyone is aware of the problems and issues. You could even have a pamphlet printed up with the rules to be handed out to each person or group.”
- “If the fishing groups are so concerned about the lack of availability to fish private property, it just makes sense that they might just try asking the landowners for permission. I know as a landowner that I do this all the time.”

- “Set up a committee to hear complaints and try to resolve them. The committee would need power from the Board of Commissioners of Josephine County. It could be composed of land owners, real estate agents, business owners, et.”
- “It does seem peculiar that a county would want the State to interfere in County problems. Perhaps they could appoint an arbitrator. It seems to me a less expensive solution.”
- “The only way to address these problems is to have more law enforcement on the river and arrest those that are making trouble.”
- “Education will not affect most people desiring access to the river.”
- “I do not feel that there is justification for expending state funds on such a project. Recreational interests are, of course, concerned but gaining access to the river bank rather than navigability is the main issue. Purchasing such access through fee programs is a more productive way to resolve such conflicts.”
- “We feel that current restrictions on the use of our property are already more than sufficient to protect the resource, and that there is sufficient public access to the resource in the proposed study area. The current laws allow us to determine whether to give access to the river to individuals based on their willingness to comply with our guidelines. This is our fundamental right as a property owner, and should not be further eroded with a new layer of regulations. Education of the public on current river access locations and rights of property owners would be one area that we feel could reduce conflicts between the public and property owners.”
- “I found some interesting facts from a poll conducted on one of our rivers several years ago that I would like to share with you. Of those participating in the poll, 55% traveled 0-25 miles one way to gain access to the river. Another 36% traveled 26-50 miles one way. This would indicate the property owners may not be dealing with recreationalists from their immediate community. In addition, only half of those studies belonged to an organized sporting club. Organized groups do disseminate information to encourage respect of others and protection of the environment. With these statistics I see a real need for education, awareness and resolution of rights.”

***Public use of waterways will increase:***

- “We...are members of the Oregon Hunter’s Association. We realize that OHA is in favor of accessibility to river banks. However, from our perspective, we shudder to think what will be an even worse problem than we already face.”
- “Therefore, anything that encourages more use of this land by slobs is not acceptable.”

***Overfishing and destruction of habitat will occur:***

- “As a landowner and resident along the Rogue River for 45 years I see no reason for a navigability study in Jackson County. I believe that identifying the Rogue River as navigable in this section would be detrimental to the fishery resource. If there is a problem here it is the overuse of the river by fisherman and rafters. The sensitive anadromous fishery is negatively impacted by humans along the banks in the shallow water nursery area. Further, erosion is increased by trampling of the riparian vegetation. The newly formed Watershed Councils, thru education, may help reduce this damage. Encouraging public use of the banks will only be a negative factor.”
- For the past ten years, I have watched the quality of life for humans and wildlife living on the river dramatically decline every year. The otters across the river are gone, the bird activity minimal. The rafting companies have taken over the river to the point that I am ready to move. What we have is a group of rental companies offering only a few minimum wage jobs, making as many dollars as they can by pushing rafts into the river as fast as possible, without taking any responsibility for the impact that thousands of rafters have on the river.”
- “The river is on the decline, big time. If you plan to open the river to the masses, you’re late - they are already there. And if that is your plan, while I have the option of moving off, the otters and birds do not.”
- “There is also a problem of the trampling of vegetation along the edge of the river where there is better spawning of fish in rivers that have limited public access.”
- “There is already a concern about the fisheries in the Rogue River, as evidence by pressure to remove Savage Rapids Dam.”
- “Limited access by private property offers a valuable protection for our native species of fish in Oregon. This is a practice that doesn’t require special laws, licenses, expensive management plans or huge public spending. Oregon should stand up to recreationalist and be the first state to not buckle under to the recreationalist lobbyist and be an example for fish management and property rights for the nation. Help preserve our native fisheries by putting some common sense into the management of our resources. Let’s consider the long term effects instead of short term recreationalist political pressure. Please consider the effect excess traffic from the public will have on the ecology of our rivers.”
- “It is our intention to be good and diligent caretakers of this land. We believe that private land owners, such as ourselves, have a responsibility to help save and protect our natural resources from overuse and abuse. Therefore, we wish it be known that, in our opinion, any increase in human traffic on the Rouge, and its surrounding land, would only add to the pollution and further compromise our environment.”
- “Identification of the Rogue River as navigable within this section would, we believe, be detrimental to the fisheries resource. Impacts from human usage in the shallow water nursery areas certainly would not be beneficial. Trampling of riparian vegetation and resulting erosion would have negative impacts on fisheries. At a time when incidents between recreationists and land owners along the river are on the decline, it would seem inappropriate to advocate actions which would reverse the

downward trend and adversely impact fisheries, vegetation, and create further erosion.”

- “The “land” in question here is underwater. The fair & correct thing to do for all concerned is to give the property owners the land in question. What good would a study do except waste more money, time and still have it unresolved. I have no faith in studies. For once, do the moral correct thing - give to the people what they have paid for & earned all these years. The land!”

***Need and/or ability to use bed and banks:***

- “In order to safely run rivers, kayakers often need to get out of their boats to view the rapid and decide if it safe to continue or to portage. By declaring the banks of rivers as private, boaters are forced to run dangerous rapids without adequate scouting or they are forced to trespass. Neither are acceptable options.”
- “As a fisherman (bank type) it would be good to have a cut and dried determination of where and where not.”

***Use a part of my heritage or rights:***

- “It is incomprehensible that the government would even consider taking river frontage from land owners. Allowing anyone to have the right to do whatever they want on property that owners purchased as “private” is ridiculous and criminal. I have been taxed mercilessly and paid a premium price because my property is “river frontage.” You that that away and you’ll bankrupt the state with lawsuits and pay backs for devaluation of every property you take.”
- “I admit a personal bias, but with what I feel is absolute justification. First, philosophically, the whim of some group or groups envious of property of others, should not be sufficient cause to abridge that ownership right.”
- “We feel a legal access to our lives constitutes an extreme breach of our privacy.”
- “As you are all to well aware, the request for Navigability Study is a classic example of a very few people attempting to obtain undeserved power and control at the expense of thousands of individuals.”
- “I believe that any change in this status could and with a likelihood would result in the theft of our property which we legally and lawfully own and purchased with our own dollars and are assessed taxes on. This action could very well lead to an all out “war” between property owners and special interest groups.”
- “We’re concerned that this Navigability Study is just a way to be able to take away the land owners rights. What about the taxes we pay on the banks and the beds and out liability if someone gets hurt there on the banks? We’re concerned that this study is to enable the State to get their hands on the banks and beds and allowing the public to urn amok on the property owners yards. The Rogue River is large enough that people can fish from boats or from public parks without trespassing on private lands.”
- “We cannot speak for others, but to us we are not interested in such a study. It appears to be a means to establish more unwanted government intrusion on private

property and to various businesses on the river - most noticeable the Hellgate Jet Boats or the removal of various dams, etc. etc.”

- “As a taxpayer who pays a premium to enjoy living on the banks of the Rogue River I am opposed to the proposed Upper Rogue Navigability Study. I as have many others pay for this privilege in the form of high property taxes and in the initial cost of the property. It appears to me that this proposed study is being instigated for the purpose of reducing my privacy and the right to enjoy my home, which represents my life savings.”
- “I feel the rights of the individual are being usurped by the State, County and Federal Government and this is just another action that brings this to the forefront.”
- “I have deep concerns about the loss of property rights for those who have deeded property to the middle of the river. Who is going to compensate them for their loss?”
- “It is customary when you buy riverfront property that you own to the middle of the river, subject to state restrictions, or any covenants or restrictions particular to that property or group of properties in that area. Owners of riparian property pay a premium price to purchase this land and pay higher property taxes. They have a right to protect their investment. By making the banks of the Rogue public property, it would allow others free use of expensive property while at the same time lowering the value to those who own the riparian property. Also, much land along the Rogue River allows the owner a certain amount of privacy which is a very desirable feature in an area where growth is being concentrated in Urban Growth Areas. Riparian property, especially that close to town, will be more desirable as growth continues, but making the banks public will greatly decrease that aspect of the property. Many public parks exist for recreationists. Those desiring more privacy need to purchase riparian property for themselves rather than infringing on the privacy and/or rights of those who do own riverfront property.”
- “River front property owners have a distinct interest in preserving their constitutional property rights. These property owners paid a premium when purchasing river front properties, and local taxing authorities have accordingly placed higher values on their properties.”
- “I feel strongly that a navigability study could be used as a tool to justify government encroachment upon individual property rights in Josephine County. In addition, “clarification” of river bed and bank ownership could result in property confiscation or the imposition of river access restrictions on owners of privately held river front property under the guise of “public interest.””

***Never experienced, or there are few problems along the Rogue River:***

- “It is unclear in your communication just what the Josephine County District Attorney’s problem is!! We are riverfront property owners and have not had ANY problems. The ownership rights seem to be clear in our deeds, etc. It seems to us that enforcement of existing laws and negotiation would appear the most economical way of resolving problems.”

- “There is no economic justification, there is no broad public interest to be served, and incidents between recreationists and landowners have decreased in the last two years.”
- “Based on my research and interview of the officials listed in the request, the reasons Mr. Thompson gave for conducting such a study are not supported. One example that was not validated was Mr. Thompson’s citing of increased confrontations between landowners and recreationists. According to interview of Mr. Robert Kennedy, Jackson County Sheriff, the confrontations have decreased, which is credited to the increased patrol of the river and the arrest of individuals involved in excessive use of alcohol.”
- “During that time period, the (writers) have not been aware that there have been any significant conflicts between property owners and waterway users...”
- “We live on the lake portion of the river behind Savage Rapids Dam. As a result, from May until October the lake attracts a large number of waterskiers, motor boats, sometimes a steam boat or a seaplane. Other than a few loud jet skies the recreationists are no problem. The County Sheriff patrols on busy days and is, in our observation, welcome but underutilized. Most of the boaters go out of their way not to be a problem; as a matter of fact we enjoy watching people having a good time.”
- “The problems and issues stated in your letter are almost nonexistent.”
- “We have been residents of the Upper Rogue for more than nine years. Nothing we have learned about this area appears to justify the proposed study. There is ample public access to the river and the fishermen and rafters we know are satisfied with the situation as it is now. While there may be occasional conflicts between property owner and recreational users, most property owners don’t see it as a serious problem.”
- “I understand why recreationists, local property taxing agencies and law enforcement officials might desire a navigability study. I am not aware, however, of any serious conflicts between property owners and recreationists, and Josephine County law enforcement officers already patrol the river.”
- “I have been involved in many trespassing disputes and the interpretation of the rights of the public to use owners riverfront property. We have had problems in Jackson County up until the State Attorney Generals office directed our District Attorney to prosecute trespassers above the high water mark (measuring the vegetation). Since this time we haven’t had problems.”

***Economic justification:***

- “NO! I fail to see any sufficient economic justification for this type of study. The river is wild and uncontrollable in the winter months and anything built to be permanent on the river will surely be swept down stream which will result in a loss of revenue rather than a gain.”
- “Yes, above the Applegate River where there are current and potential commercial riparian activities as well as marina possibilities, and also there is substantial gravel extraction. Below the Applegate, commercial opportunities are reduced because of the influence of State and Federal River Laws.”

- “I see no economic justification. I foresee significant negative impact to the state in legal fees and compensation for lost property values. Decreased values dictate lower assessments, leading to lower property taxes. If the state seizes property to the mean high water line,” the parent property no longer has “river frontage.” (That precedent has been set at Gold Rey Estates.). Therefore, “River MVI” (market value increase) must be paid to property owners as compensation for decreasing value. Assessed values would decrease property tax liability. There is also compensation to be paid for the land seized.”
- “As far as economic justification is concerned one only need look at questionable value to property as well as worth of public rights that go back to ancient times. Private citizens should not own a river. Rivers belong to the general populace as it have always been and should stay. This is what the Federal laws and courts have been saying since long before Oregon became a state. This is a public interest which is broad and substantial.”
- “NO, there is no “substantial economic justification” for this study. The Jo County D.A. cannot be acting in the best interests of ALL of his constituents. Do we have such an excess of taxpayer dollars that so many should be earmarked for this study?”
- “Economic justification? Fly fishing as we now know it on the Rogue, would cease to exist, most of the fishing activity occurs from bank or stream-bed wading, we couldn’t even anchor up and fish from the boat! A conservative estimate shows that during most busy months over \$100,000 flows into the area for fishing. Also, in the summer months other water sports contributes additional monies. When weighted against the economic benefits to the landowners (\$0), it would appear the Economic justification is rather negative.”
- “I am not aware of any private marinas that exist in our area or of any potential revenue generating applications that currently exist below the “high water mark” that could contribute to the Common School Fund. In the Upper Rogue there is substantial riverfront property that is already in public title with the Cole Rivers Fish Hatchery, McGregor Park, Casey Park, Rogue Elk County Park, Upper Rogue Regional Park, and many more. I therefore feel the potential study does not meet the economic justification test. In fact, there may be more economic downside to doing the study that would more than outweigh the benefit. If the State makes a navigability determination, those property owners so affected would probably file for economic relief under a “Dolan” takings court filing.”
- “How will revenue be generated to meet the requirement of “Sufficient Economic Justification” unless marinas or other commercial enterprises are in the mill. What are they?”
- “I can only speak for the area of the river from Gold Ray Dam to Gold Nugget Park, Jackson Co. I feel there is negligible economic justification for the study.”
- “I am also unaware of any economic justification for the study and see no evidence that lack of such study is hurting the Upper Rogue area economically.”
- “We can not see any revenue being generated to the School Fund by this study since anyone that has ever rafted this part of the river can already tell you that there are many places that are too shallow and/or have too many snags to pass over thus

necessitating you to walk your raft over these spots. Any means to remove these places or to deepen them would then adversely affect the fish that inhabit our river.”

- “Everyone I have talked to are happy the way things are; there is no economic justification so there is no proposed study needed.”
- “I do not see any justification, economic or other, for a navigability study. This issue was resolved a long time ago. The Rogue River has been declared a NON-NAVIGABLE river and there is a final decree on record to that effect. Any money spent for a study would be a great waste.”

***Public interest:***

- “NO, there is no “broad and substantial public interest” to justify this study. You are talking about several special interest groups (OHA, rafters, guides, fishermen) only who are demanding more than anyone should have to give up.”
- “Broad interest? No doubt there is a broad interest against such a study!”
- The Jackson County Commissioners feel there is no need and no public interest to be served by a navigability study of the Rogue River.” (excerpt taken from a letter from a private citizen).
- “Yes, as just one of the riparian owners I share common issues with many other riparian owners. I have an interest in resolving conflict between myself and trespassers, thieves, litters, fire builders (especially during the dangerous high fire season), and legitimate recreational users of the waterway.”
- “There is no “broad and substantial public interest” to be served. There might be some narrow, special interest benefit to a small number of persons if the private property rights of existing owners is further eroded, but surely nothing of a broad general public benefit. There already exists substantial, convenient access along the entire area under proposal, areas I might add, that the Josephine County Government finds that it does not have the resources, neither manpower nor financial, to support and maintain.”
- “Who are all the people that are asking for the study? Is there enough public interest? You tell me. Have you had a couple of thousand people write to your office and ask for this study? Has Mr. Thompson had this many people ask for this study?”
- “In our area there is little or no interest in this study. Most property owners feel that the Jackson County Commissioners are on top of the situation.”
- “We’d like to say that we see no justification for such a study. As a devoted fly fisherman I have more than ample access to the river and my fly fishing buddies feel the same way.”
- “We certainly don’t see a need for this study. We have not had any problems with the Recreational users of the river and we know of NO public interest requesting this study.”
- “As to there being a “broad and substantial public interest” for this study, we do not feel that this will have any affect as to solving conflicts between property owners and users...in fact it would be more likely to add to it!”

***Problems noted; incidents reported:***

- “We now fight a constant battle with rafters and boaters who pull up to our place to use the phone, beg a drink or relieve themselves in plain sight of our front yards. They litter, ever to leaving broken glass from their beer bottles and curse us if we ask that they move on. We have had people look through our windows, sit in our chairs and generally destroy our privacy.”
- “I own property that has suffered the consequences of just such an action. Since the BLM confiscated riverside rights in the section that includes my property, my front yard (not fifty feet from my house) has become variously, a public toilet, a convenient boat repair stop, and a trash disposal site for those picnicking on the river; hardly justifiable for the general public good.”
- “I strongly resent challenges and threats of trespass charges for simply beaching my raft, or standing on the bottom of the river, while holding my raft, awaiting other members of the party’s catching up. While I have a strong concern for legitimate land owner’s rights, and share their concern for litter pick-up, their threats for simply being there are not appreciated.”
- “We primarily use the river in one of the water craft, which we own, and always, there are attitudes present. For instance, when we go to one of the many parks, where ramps are available, (to put in or boats), there are always fisherman, there, they take immediate ownership of the ramp and either refuse to move to the sides, (so as to allow us to utilize the ramp for boat access, into the river), or do so as such a slow pace, so as to tell us, (not in words but actions), that this is their ramp and we do not belong there. It is unfortunate, but some type of ordinance should be put in place, to allow boaters the same access as the people on the skirt of the river have. I do not believe people should be allowed to occupy the ramp/s, accept for that in which it was designed and that is physical access, for river craft into the river.”
- “This year, in early summer, a woman who lives in Oregon rented some rafts and took her friends and family out on the Rogue River for a day of rafting. They put in some where above Rogue Elk, or at Rogue Elk and began drifting down river. Some where above Shady Cove, they came upon one of the many hazardous areas, where fishing people pack the skirt of the river and throw their lines across to the other side. Well, as this woman and her group came around the bend, one of the many that were fishing on the skirt apparently decided that the woman and her group wasn’t moving fast enough and was taking up to much of his valuable fishing time, so he throw his line across the river. The line was thrown over her bow and across the raft. As she drifted, the line came to its end, which exposed the hook, which then stuck into the bow of her raft. The woman, in panic, pulled the hook from the raft and it logged deep into her hand. Of course, the raft is being pulled by the current of the moving water and the hook logged deeper and deeper until it created a large gap and finally dislodged. I, as so many believe, that this man, fishing on the skirt of the river, intentionally throw his line across this woman’s bow. When the woman finally came upon a place where she could get help, report this incident and the police went to investigate, the man responsible was gone and no one there on the skirt of the river, new or saw a thing. The woman’s hand was badly torn and her raft, (which was rented), was damaged. This woman had to paid for the repairs to her raft , not to mention the cost of repairs to her hand. I have been drifting and boating on the

Rogue for years and I have seen many similar circumstances that could have very easily turned into the same scenario.”

- “Another issue I would like to broach, is people using the river, while drifting down same. Some of these people, quite a lot really, have no respect for private property. The law states, that navigators have the use of the river, from skirt to skirt, at what would be normal high. Most people either do not understand or they just do not care. These navigators pull their crafts up on to private property and picnic, urinate and through trash. This is wrong and it is even worse, when they come up several yards, in some cases, fifty feet and do these things. I have come home and have found navigators on my grass and deck. I look out onto the river and watch navigators urinating up against my deck and or on my neighbors trees, across the river from me. People should be made aware of what normal high is and laws should be made, so as to protect home and property owners from trespass and vandalism.”
- “We have recently seen a boat load of duck hunters pull up in front of our neighbor’s place and shoot round after round into the flock of domesticated, hand-fed geese and ducks that live there. It was wholesale slaughter and we were shocked that these hunters would call this sport. A shot from our river bank only has to travel 50 feet to endanger human life and the tranquillity we feel we should have as landowners and taxpayers.”
- “Among my experiences with the access issue here on the Rogue is being harassed for 40 minutes by a Grants Pass city policeman for supposedly trespassing when I was in fact 70 feet from the nearest private property line and in fact standing in the Rogue River. Also, on another occasion a man sent his dog to attack me when I dared walk the riverbank to a favorite fishing spot.”
- “Just a year ago my wife, while staying on the property by herself, had an intruder up from the river try to break into the house. She called 911 and after about 45 minutes a police cruiser and a sheriff arrived took the man into custody and questioned him then turned him loose still on our property. They poo poo my wife’s concerns saying the man was drunk. This is an example of two things 1. Lousy police response and 2. Negligent police actions. Now if a portion of our land is made accessible to who knows who and the same degree of police response is in force what can we expect as tax paying citizens?”
- “There seems to be a clear conflict evolving between riverfront property owners and recreational users of the Rogue River. I feel this the navigability study needs to be accomplished in order to clarify ownership issues along this river.”
- “We have in the past had to clean up after trespassing fishermen picking fish hooks out of the sand along the river and cleaning other debris from our property we have had fishing line with hooks hanging from our trees at eye level. Both of these situations with the hooks are potential hazards for people and pets of when we have several.”
- “The Josephine County D.A. cites increased confrontation between recreationists and landowners. Jackson County Sheriff Robert Kennedy states that confrontations have decreased.”
- “The thing that makes me maddest is that after that permission is given, I go down to the river and look and I find worm containers, potato chip bags, old fishing line,

places where people have gone to the bathroom on my property and so on. I wonder how they would feel if I dumped garbage and went to the bathroom on their property?"

- "The upper Rogue has turned into a kind of metropolitan water park! But guess what? There are no restrictions or supervision of alcohol abuse, property abuse or wildlife abuse. It's just dump and go - whether garbage, bottles and cans, or to the bathroom."
- "Also who is going to control the problem of trash left on private property by the fishermen. I belong to a fishing club that cleans up the river and everywhere there is public access, there is major messes to clean up."
- "Trespassing across private property to gain river access is already a problem. Those who want to get to the river do not obey signs and often tear them down; they also litter and vandalize property."
- "My wife and I have always considered the river to be there for everyone's use and pleasure. We have owned this river frontage property for the last fifteen years and have never seen a need or had a desire to clarify the river bed or bank ownership of our property and fail to see the need warranting the expense and time for this study. I'm sure that occasionally there are justified and most likely unjustified conflicts on the river, just as there is in town, on the road, etc. We, as property owners, have never had a conflict with the recreationists on our section of the river and don't anticipate problems in the future."

***Enforcement of laws relating to misdemeanors:***

- "It is very clear to me that this is strictly a fishing issue because there are already way to few officers to enforce these rules, and that leaves the landowners with an even greater problem of trying to enforce on their own."
- "This conflict has been going on for years and will continue. No other laws added would make a difference. More enforcement of the existing laws is what is needed. People being people, there will always be those that disregard the rules and have no concept of respecting other people's property or even common courtesy. They will continue to trespass, dump their trash, etc."
- "It is unrealistic to expect local law enforcement to be able to respond to the numerous complaints of trespass that will occur as recent budget cuts have reduced their staff and ability to handle all other crimes."
- "We feel that the current laws are sufficient to protect our rights as property owners, and still allow access to the river for recreationists."
- "Increase state funding to assist local Sheriffs Departments with maintaining or increasing marine patrolling would be a better place to use the funds that this study would require."

***Bed and banks bought in good faith, taxes paid:***

- “If the State asserts ownership on behalf of all people to the high water mark on the riverbanks, doesn’t anyone realize that this boundary is our yard? No other landowners are required to allow access to the public in this manner.”
- “I can’t believe you are proposing such a study! My deed, and I’m assuming also the deeds of others, says I own the land to the middle of the river. I understand that the public has the right of use to the water in this river, but the exposed banks are mine! Can it really be that by some obscure rule such as you propose that we could all lose this property? Surely not.”
- “If the State wants to keep this so-called property - then the State owes us money that was billed incorrectly on our property taxes.”
- “Some special interest groups, i.e. Oregon Council of Federation of Fly Fishers; the River Recreation Coalition and others are bent on wresting the rights of private ownership away. Their published assumption that the river banks are public property is false, a fact affirmed by the highest court in the land. Their self-serving agenda is not justification for the State Land Board to undertake a superfluous study of: “those parts of waterways which have had their ownership determined through adjudication by a court having jurisdiction to determine title to real property in Oregon.””
- “My principle concern is the issue of clarifying river bed and bank ownership. According to the Jackson County Assessor because I have river front property then I own the bank and a portion of the river bed. I believe if the final conclusion of your study would indicate the the State would take over this ownership, all people in a similar situation as mine would demand a reduction in our tax assessment.”
- “But, quoting the newspaper article, “according to the “Equal Footing Doctrine”, the state owns all land underlying waterways. In other words, if the river is navigable, the property-line will become the high water make, and not the middle of the river. If this is, and has been the case, then I have been paying taxes on even more land, which is implied here that I don’t own either. We’re talking here about roughly two acres – remembering the recent flood. And if it turns out I don’t own this second piece of land either, the implications are awesome! 1. The state will owe me several tax refunds. 2. Even more serious: this could possibly imply this property was sold to me with false information and documents.”
- “The interests of recreationists would give rise to further disputes as they attempt to intrude on property ownership rights to gain access to the river banks. Law enforcement and property tax officials would not have any greater authority than already exists current law and regulations. Property taxes are presently based on the assessed value of the property as being situated on the bank of the river. To add restrictions to the right of ownership would effect a lessening of that value and a deterioration of the tax base.”
- “What I do know is I am paying property taxes for law enforcement on trespass issues for property that comprises part of the bank of the Rogue River that has never been declared navigable. Other riverfront property owners are doing the same. If a person is paying property tax to support the District Attorney’s office, then enforcement should extend to all of the property to which the tax is being applied. The State has never altered this taxation situation via legislation. Court resolution of individual cases appears to be the most appropriate legal remedy.”

- “Taxes are an issue! Every year, I pay taxes on approximately 10,000 square feet of land, which is in the river. It wasn’t prior to the 64 flood, but it is now and now it belongs to the people. I legally own this land, I pay the taxes, clean the skirt of the river along my property, maintain and insure same. If this land, which has been taken from my family, is going to be used for public water ways, recreation and state use, then the state should paid the taxes, clean the mess, maintain and insure me for the trespassers. The state should assist me in protecting my property from trespassers. The state should educate navigators, as to what is normal high water, how far they can actually go from the edge of the water, make trespassing a serious offense and prosecute the offenders. Empower the owners of real estate of the river ways, to enable them to defend their property. Not by violence but by action.”

***Interpretation of “navigability,” limits of navigability:***

- “Regarding navigability, under normal conditions in the summer the river can be used as a waterway only by jet boats of minimum draft (1 to 2 inches) at high speed. In the summer, after a DRY winter, you can walk across the river in places and not get your knees wet!! It is certainly NOT a reliable navigatable route. Indeed, there are several locations such as Rainic Falls, the site of the Savage Rapids Dam and others that require PORTAGE – even of rubber rafts.”
- “The non-navigable status of the Rogue River was clearly stated by the U.S. Supreme Court in California Oregon Power Company v. Beaver Portland Cement Company and the City of Gold Hill, Oregon (295 US 142-165).”
- “When the State published the document “Who owns our waterways” it pointed out to all the fact that Oregon, the citizens of Oregon, own the bed and banks of all navigable waterways, with very few exceptions, and the Rogue River is not an exception. If a waterway meets the Federal Court standards for navigability, and those standards have been defined by up to and including the U.S. Supreme Court, then Oregon owns the bed and banks which are held in Public Trust for the citizens, past, present, and future of the State of Oregon. The past and present use of this waterway shows that it obviously meets the Federal Standards for navigability.”
- “I understand that the section of the river above Gold Ray dam was declared non-navigable by Act of Congress before the dam was constructed. This was necessary to preclude the need for navigation locks over the proposed structure. If this information is correct a navigability study on this particular section of the river would be unnecessary.”
- “The navigability study request referred to in your letter dated December 2, 1997 is absurd in its premise, superfluous and an extravagant waste of taxpayers money. This navigability study is a moot point as there is a Final Decree stating that the proposed study portion of the Rogue River is a NON-NAVIGABLE water course.”
- “There is no need for such a study. The river is really not navigable in the stretch above-described. I have rafter and boated from the dam to Shady Cove several times. I live on the river, and I know the water level varies a great deal. In the summer, and into the fall, the level falls far below what is needed to send boats up stream to the dam. A boat going up stream needs to have a motor, and a keel, and there is very

often not enough clearance to allow such a boat to go up stream. This summer when my daughter and her family visited, we rafted down from the dam, and were stuck for about ten minutes in mid stream on a sand bar. We only see drift boats on the river, and rafts of course. Drift boats have a flat bottom and a shallow draft, and are propelled by oars. No one can row a drift boat up stream from Grave Creek to the Lost Creek dam. No one tried to row a drift boat up stream anyway. All the rafting and boating is done by entering the water at the site below the dam and going down stream with the current of the river.”

- “As to the “navigability” of that section of the river (in the vicinity of the Weasku Inn), I don’t really know what the legal definition involves. I fish the area about 100 days each year. I have certainly seen boats that brave the waters below Savage Rapids Dam, but not very many. It seems to be a self-regulating area of the river. At times below the dam, the water can be extremely rough depending on the flow. At other times it is much calmer and less dangerous. How will the DSL decide?”
- “Conflict alone could be evidence supporting navigability. How did the watercraft get to the site to engage in conflict? It obviously arrived supported by water making it difficult to disprove navigability.”
- “After reviewing all of this information, including specific court cases, there is no question in my mind that this section of the Rogue River meets all Federal requirements as a navigable waterway. As the U.S. Supreme Court has ruled, rivers that are “navigable in fact are navigable in law.””
- “My personal observations of existing commercial guide and recreational boat traffic clearly qualifies this section of the river as a navigable waterway under federal law. I have counted as many as seventeen drift boats and jet sleds on this section of river a day.”
- “My question - or comments to you, are, “if the river is not navigable, then what in the world are the commercial jet boats and riverguides doing in a none navigable river, at this area”?!”
- “I am sure some time back it was already ruled the Rogue was a navigable river all the way to lost creek dam. How can it be ruled any other wise? We still have commerce on the river till today. Jet boats at Grants Pass and at city of Rogue River, both hauling for hire, plus guide boats for hire.”

***Liability issue:***

- “The question of liability in case of accidents is a serious one in this age of lawsuits. Who will be liable in the event of accidents on the river bank? The public will try to implicate landowners.”

***Who will/should pay for study:***

- “I do not feel that we need a navigability study conducted on the Rogue River. The money could be better used for education.”
- “I find it very hard to believe that a DA would do this of his own accord. If it is as you say, then I think that Tim Thompson needs to find a way to justify to the

taxpayers of Josephine County how he is going to pay for this study. I feel very strongly that the taxpayers of this county need to know where their tax dollars are going and why.”

- “If there is such great concern by these fisherman, then again I say that we need a vote of the people, or we need to have the NW Steelheader’s raise all of the money themselves to pay for this study.”
- “To spend any taxpayer money on such an unwarranted project would be ludicrous and another testament as to how government invents new problems to drive the bureaucracy.”
- “We feel that in the current climate of intense competition for existing State revenues, the money required to undertake a study of this scope is not justified. The value to us as property owners is not great enough to justify the expense.”

***Comments Concerning The Weasku Inn:***

- “I have discussed this matter with Dayle Sedgmore the manager of the Weasku-Inn property for the past four years. I have also shared copies of information from my files. Their position is that they own the river to the centerline, and have every legal right to charge.”
- “The Weasku Inn, as well as any landowner, has the absolute right and privilege of granting or denying access through their property to the river, even capriciously or for profit.”
- “The other question and comment is about the “Weasku Inn.” Since they refuse most fisherman on the high water mark, to let them fish without paying - what can be done about this, to stop this practice?! How can an individual charge and gain from our natural resources - like this river, after we all pay out state-and property taxes, too. First of all, there is a law, after 10 years of crossing the same property (like the Weasku Inn), and not being stopped from doing so, automatically this becomes a right of way, and the people, who did exactly that, should be able to claim this as a adverse possession. I have you know, there are plenty of people. Who did this for much longer then 10 years. Will this law being taken in to account by the review process?”
- “This is in reference to the navigability study being done on the section of the Rogue River at the Weasku Inn near Grants Pass. I am one of the fishermen who has willingly paid the fee asked for by the Weasku Inn. There are three rather selfish reasons I have been glad to pay. One, the location is very close to my home. Two, it is one of the best salmon bank-fishing areas on this part of the river. Three, the fee greatly reduces the number of people fishing this area. If it is determined that this section of the river is “navigable,” it will certainly become another of the many shoulder-to-shoulder “combat” fishing areas during the peak salmon runs. I would, for the above mentioned selfish reasons, rather not see this happen. However, I certainly understand the feeling of those that are unable or unwilling to pay the fee. The river should be accessible to all those legally entitled. I have been witness to the hostilities mentioned in the Daily Courier article of Dec. 19. There has been friction between payers and non-payers, and between non-payers and the security guards

hired by the Weasku Inn. The issue needs to be resolved as soon as possible. The possibility of violence, as stupid as this may be, is still there.”

***Miscellaneous comments:***

- “Many river dwellers, ourselves included, have a policy of letting folks across our places to fish or hike; we feel if they are honorable enough to ask, that they are probably going to respect the area.”
- “As an owner of property on the Rogue River above Dodge Bridge I believe the public has a right to use river frontage within the limits of the usual high water line. I am in favor of any studies necessary to maintain that right but otherwise would not think the expense of a study is necessary.”
- “The so-called problems and issues raised are trivial compared to the real motive: the elimination of all people from the river bank/bottom.”
- “The first thing that comes to mind is that the segment of the Rogue River from Grave Creek (River Mile 68.4) to the confluence of the Applegate River (River Mile 91.) is within the Wild and Scenic Rivers Act (WSR) and under the stewardship of the Bureau of Land Management (BLM). Regardless of land ownership the BLM prevails in the regulation and management within this segment. Some delegation have been made to state agencies. However, this delegation is at the pleasure of BLM and subject to change. BLM retains veto power.
- “The second goal isn’t exactly honest either. Does anyone involved with this concept really believe that if the control is given to the landowners, conflicts will be reduced? They would increase exponentially with the number of “No anchoring, No wading, no stopping” signs proliferating.”
- “As you proceed to consider the history of the Rogue as it relates to navigation I hope you can define and separate navigation as it results from public money - government money - dredging, and the navigation that results from private dollars spent to modify the river channel for the purposes of enhancing single businesses.”
- “Who does Mr. Thompson represent? Developers!! Private land owners!!! or what special interest is his agenda slanted toward?”
- “I am a property owner with a lot that backs onto the river. Assuming there is an area between low water flow and normal high water that the State is entitled to and which is essentially open to the public via boat or otherwise. Will the State a) survey this to establish the boundaries? B) will the state assume liability for persons injured on that area? C) will the State be responsible for keeping the debris picked up and removed? I ask these questions as I do not intend to do these things. Maybe Mr. Thompson will assume this responsibility.”
- “The property owners along the Rogue River are interested in preserving the natural beauty of the river. I don’t feel the state would have funds to sponsor the cleanup after recreationists if ownership to the normal high water mark to the middle of the river was lost.”
- “I wish to state that as District Attorney for Josephine County, Mr. Timothy R. Thompson, should not be allowed to infringe on Jackson County. If he has a problem in his county then he should certainly ask the state for help and clarification.”

- “If there is a different situation in Josephine County I suggest that you limit any study you might undertake to the Josephine County area.”
- “Our property is located between Eagle Point & Shady Cove, along the upper Rogue. We were recently threatened with major development along the banks of the river, across from our property. We felt strongly that this development would have devastating effects on the river, and therefore, opposed it.”
- “It is not right to expect a property owner to fence his access to the river at great expense and inconvenience, just to protect his own property from trespassers if the river banks are made public. It also limits his use of his own property.”
- “The high water line on the bank will be a point of much dispute unless it is clearly marked. Who will do that?”
- “I do believe property lines and or river navigability disputes should be handled by the persons or agencies involved in the individual dispute.”
- “I believe that Josephine County river front property owners and residents should be adequately informed about the perceived need for, potential costs, and specific potential impacts related to District Attorney Thompson’s navigability study request. This information has not been provided to date.”
- “A major problem from the standpoint of property titles along non-navigable sections of the river concerns establishing meander lines. Such lines were agreed upon with respect to my Tax Lots 700 & 715, T36S, R2W, Section 16 but have not been established on my Tax Lots 900 and 1001, T36S, R2W, Sec. 16. Assistance of the State Lands Division in mediating such agreements between adjacent land owners would clarify a lot of problems for local tax officials and title companies. This action would be much more productive than initiating a navigability study on such a broad stretch of river. Opening that can of worms will result in a never-ending and costly controversy which will go nowhere.”
- “I would like to say I am against a navigability study. I live on the River near Lost Creek Dam and feel Josephine Co. asking for this certainly doesn’t mean it should be for Jackson Co. too. I believe it will be very expensive and I see no need of it. It will just stir up new problems and charges.”
- “I question the value and utility of this study, if completed, to the requesting party - the Josephine County District Attorney. Representatives of that office have frequently, vociferously complained of having inadequate assets to perform the existing mandated duties of the Department. If memory serves me correctly, an elected official of that department publicly states an unwillingness to perform all the duties of the office, due to his dissatisfaction with salary compensation for the position. If the request is mere personal musing, it hardly merits the further expenditure of public tax dollars.”
- “Neighbors are aware of their property maps and boundaries of their property. Lines are clearly indicated to the middle of the river, however according to old law this may be in error. The Jackson County Tax Assessor does state that property owners are not taxed on the submerged property. He did state a study would be beneficial to establish lines on a new digital map but seemed to accept the information could be available on existing maps like the one we used to establish our property boundaries with an insurance company.”

- “We are most opposed to any suggestion that a study is justified to assist the real estate agencies. Part of the reasonable expectations of agencies is that they earn their commissions by the research of properties they represent.”
- “Riverfront property owners are good stewards of the land and most preserve the natural beauty of the river. Would owners be so diligent in cleaning up after recreationist if they lost ownership to the normal high water mark to the middle of the river? Could and would the State have the man power and money to sponsor the clean ups?”
- “Should it be determined that the stretch of the Rogue River is navigable and that the State of Oregon exercise its domain and that recreationists have full sway to traverse river bank area, the entire stream bed would likely result in a vast public latrine as persons needing to relief from pressing body functions will not have the necessary sanitation facilities. It is indispensable that recreationists confine their activities to the many public parks and boat launch areas where toilets are provided.”
- “Once the area is declared “navigable,” the commercial interests is likely to push for reconstructing of the river bed by dredging and other disabling activities. This will result in a denigration of the natural beauty of the area to the consternation of both the recreationists and property owners.”
- “The State has taken no steps with Jackson County to change property boundaries for taxation purposes and therefore, we could asset that a “new determination” could be considered a “taking” of the most valuable portion of our taxable property. The litigation on this could take years and cost a fortune.”
- “Making a “navigability” determination will not help to resolve conflicts in our area. Does the Division of Lands plan to “paint the line” of where the normal high water mark is? How are they going to make this determination without extensive engineering surveys, etc.? A definite marking will be necessary for law enforcement personnel involved in “trespass” issues. Right now they are able to say the area has not been declared officially navigable under ORS 274.400 - 274.412 and therefore politely request trespassers to leave, period. They will need an actual demarcation, to determine “trespass” if a navigability determination is made. The average law enforcement official is not qualified to make a “high water mark” determination.”
- “If the Josephine County District Attorney feels Josephine County has a problem, would it not be prudent for him to solve it without drawing other counties into it?”
- “My husband and I live on the Rogue River just upriver from the City of Grants Pass. We and all of our neighbors consider the river navigable and allow fisherman and other recreationalists use of the bank of the river in front of our property. A single property owner trying to limit access for private monetary gain should not cause the state to spend thousands of dollars on a study unless there are other compelling reasons.”
- “I am sure that there was a navigability study, or a study of whether to have such a study, some time ago. Early 80’s, I think. Are you aware of it? What actually took place at that time? Was a full study made? What has changed since then, that would make a study appropriate at this time? What I am suggesting is that perhaps dusting off the old study, or the reasons given at the time not to even bother with a study, will be a sufficient answer to the new request for such a study.”

- “I have lived on the Rogue River here in Grants Pass for 51 years. I see it every day. If we could convince everyone to just leave us alone, it would be another Beautiful River for at least another 50 years.”
- “I do believe the legislature has the right to assert State ownership to all waterways determined to be navigable by previous studies. I also believe they can provide for a bed and bank easement of all waterways. With either of these concepts, education is necessary so that property owners and river recreationalists can exercise mutual respect for each others rights.”
- “As the population in the Rogue Valley increases, conflicts, in this atmosphere, will also increase. The ownership questions end up as conflicts between people in court. Judges rules, not legislators.”
- “The salmon and steelhead fisheries of the Rogue River have long been recognized as among the highest quality in the Pacific Northwest. These sport fisheries provide Oregon resident anglers with premium recreation opportunities, and also attract large numbers of sport fishermen from outside the state. A cooperative study sponsored by ODFW, Rogue Valley Council of Governments, U.S. Bureau of Land Management and U.S. Forest Service estimated that the four major fisheries that were surveyed (spring and fall Chinook salmon, and summer and winter steelhead) have a direct net value to the economies of Curry, Josephine and Jackson counties of about \$12.6 annually. This study, which was based on angler surveys conducted during 1992-1994, also estimated that these fisheries annually generate about 354,000 angler days of recreational use. Much of the angling activity on the Rogue River occurs between Grave Creek and Lost Creek Dam. While the spatial and time distribution of angling effort varies between species, angler use is generally high throughout the area from Grave Creek to Lost Creek Dam. Participants in these fisheries include large numbers of both bank and boat fishermen. While access to recreational opportunities for boat anglers are generally not restricted by the navigability issue, access for bank anglers is affected by the navigability status of the river since much of the river front property from Grave Creek to Lost Creek Dam is privately owned.”
- “The State of Oregon has a trust duty to the citizens of Oregon with respect to its ownership of the bed and banks of all navigable portions of the Rogue River and its navigable tributaries. Illinois v. Illinois Central (citation omitted). The State of Oregon continues to breach that fiduciary duty in failing to assert and exercise its trust ownership on behalf of all citizens of the state. The controlling federal law is absolutely clear as to the extensive state ownership of much of the Rogue and its tributaries. The pending navigability request allows the State Land Board the opportunity to assert navigability and title ownership in conformance with federal law, and to assume its mandated trust duties to the citizens of this state.”
- “Therefore, for what are the anglers being charged for fishing licenses and tags, if the river is only good for one selected group of people, but not for others, at some areas? Also, what for are all the boat ramps built along this stretch of the river? It seems to me this would amount to a waste of taxpayers money. Please, now consider this, it won't take to long for many tourists to find out, that there will be no more fishing at this stretch of the Rogue River. If they will stop coming, because of this - and they will - then Grants Pass businesses, will loose a lot of much needed Tourist-Trade.”

- “The law says the state owns all river beds. But what is causing all the problems on all of our rivers is the countys going back to some of these old deeds that read to center line of the river and billing for property tax on the river bed which the state of Oregon owns. As these property were sold over the years they should have been changed by the county assessor’s and river beds dropped from tax roles. The same is going on in every county and on every river. This needs to, and hast to stop the state needs to own all river beds to high water line, how else can they keep access for fishing swimming & also gravel deposits.”