



A River Runs Through It

An OLTA Presentation

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Definitions

- Uplands – real property that abuts the waterway
- Mean High Water Line – line water rises to annually
- Mean Low Water Line – line water recedes to annually
- Submerged – the land lying below the mean low water line
- Submersible fka tidelands – the land lying between the mean high water line and low water line
- Meander or Survey Line – survey tool to designate the lands bordering a navigable waterway
- Harbor Line – Regulatory line that beyond which structures cannot be built in a navigable waterway

Ownership

- Navigable Waterway: State owns all the land below the mean high water line. ORS 274.025
- Non-Navigable Waterway: The property owner owns the land beneath the water way.
- Water: State owns in trust for the People of Oregon

Navigability

- Equal Footing Doctrine – US Constitution requirement that new states have the same rights as the existing states.
- Navigable in Fact or influenced by the Tides at the date of Statehood.
- Navigability test based on Federal Law



Navigable in Fact:

Capable of being used as a highway for commerce in its natural and ordinary condition at statehood.

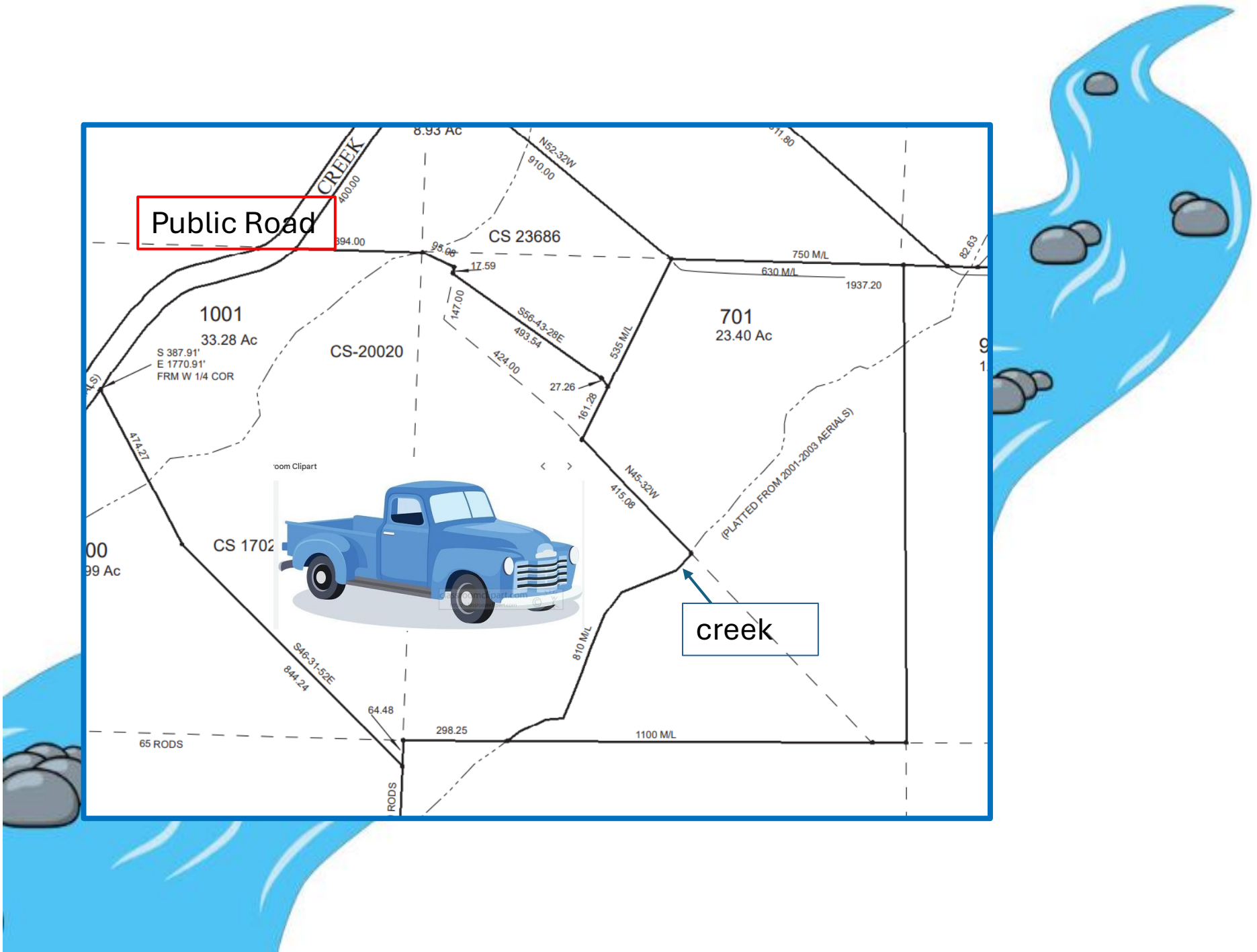
Oregon Department of State Lands website:

<https://www.oregon.gov/dsl/waterways/Pages/maps.aspx>

Conveyance

- Navigable - State may convey or lease beds of navigable waterways
- Non-Navigable – the conveyance of the surrounding uplands includes the non-navigable waterways



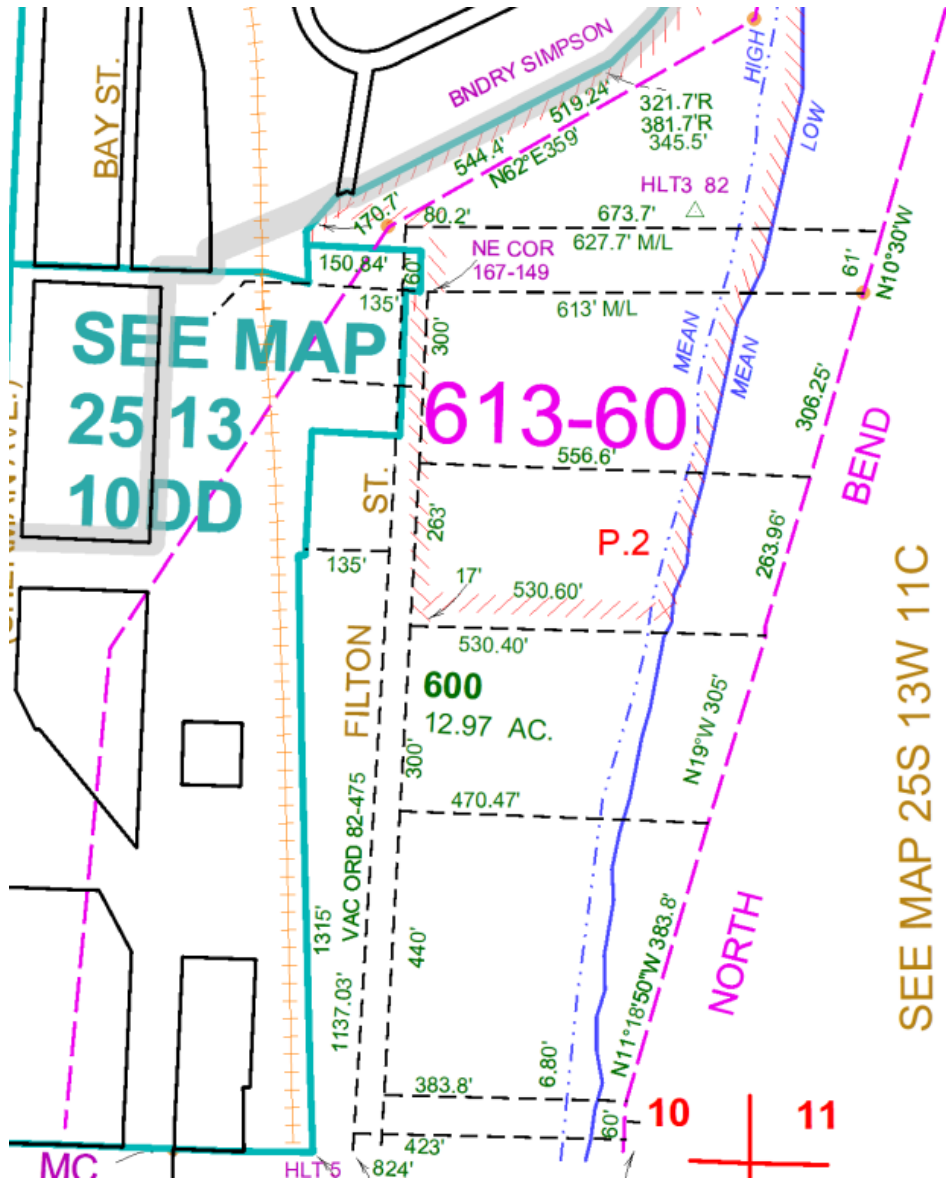


Fill Lands

Fill is land added to submerged or submersible land that raises the land so it protrudes above the mean high water line.

Ownership of the submerged or submersible land remains with the State of Oregon.

Ownership of the fill lands remains with whomever provided the fill.





Oregon Beach Bill – Thorton v Hay

Oregon Beach Bill created a public easement over the ocean shores. (ORS 390.605 – 309.770)



Waterway Property Boundary Line

- Navigable: The property boundary is the mean highwater line.
- Tidewater: May be mean low water lines. (ORS 93.310)
- Non-Navigable: The property boundary is the centerline of the waterway. (ORS 93.310)

Waterway as a Boundary

Accretion – the gradual and imperceptible deposit of land at the edge of existing land.

Reliction – the gradual and imperceptible removal of land from existing land.

Avulsion – sudden natural change caused by flooding or the like or artificial changes.

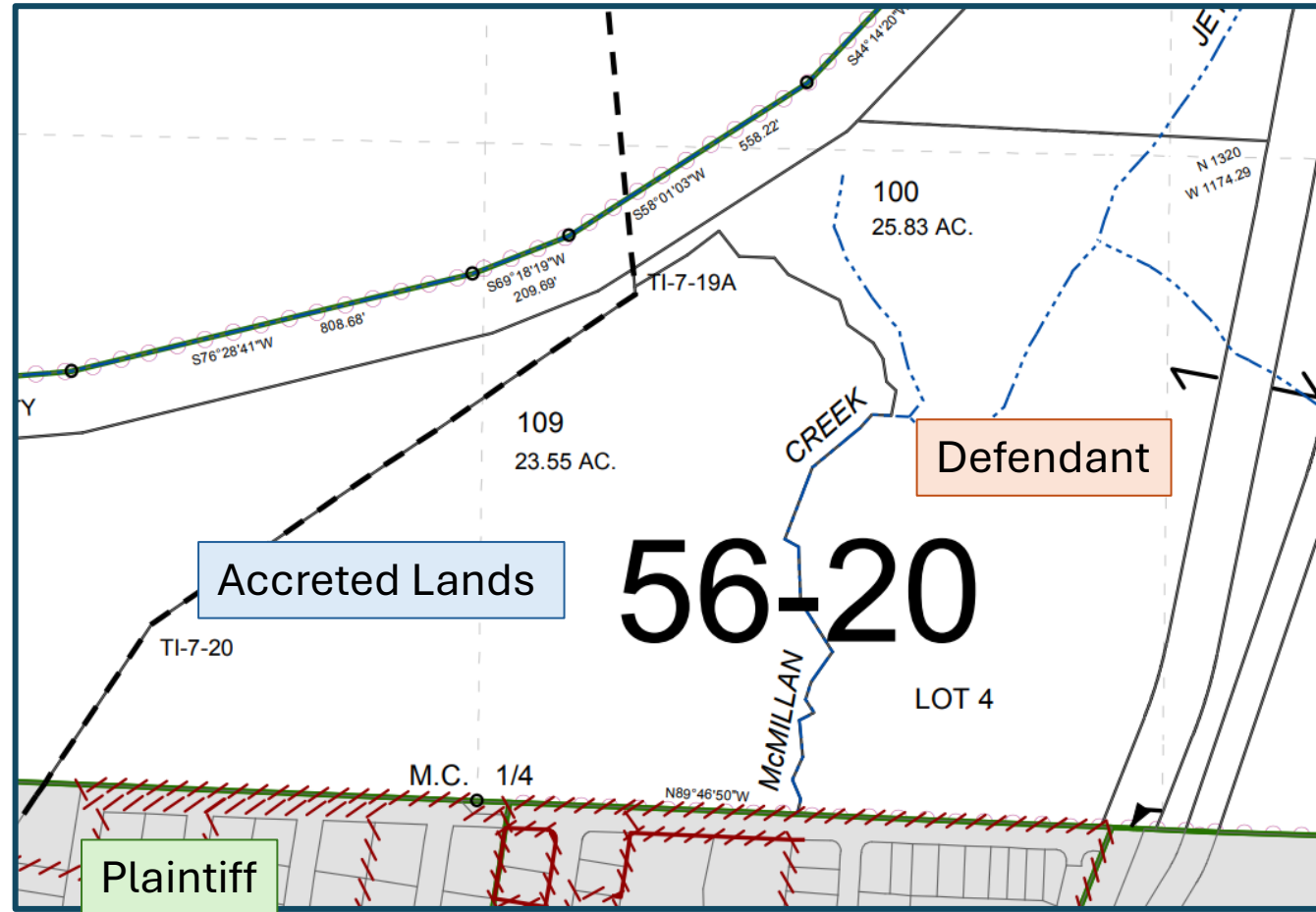
Rule of Accretion

The property boundary moves with the waterway.

The uplands owner owns the land that is accreted to them and loses the land that is removed through reliction.

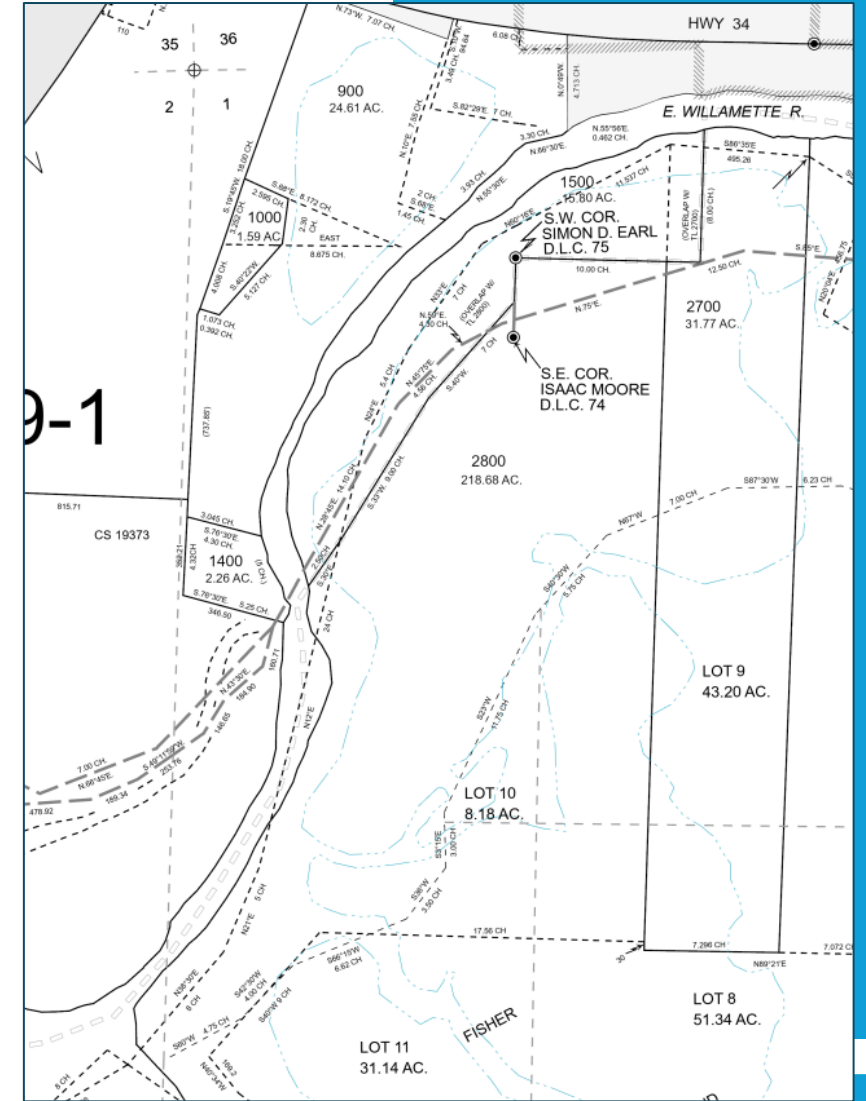
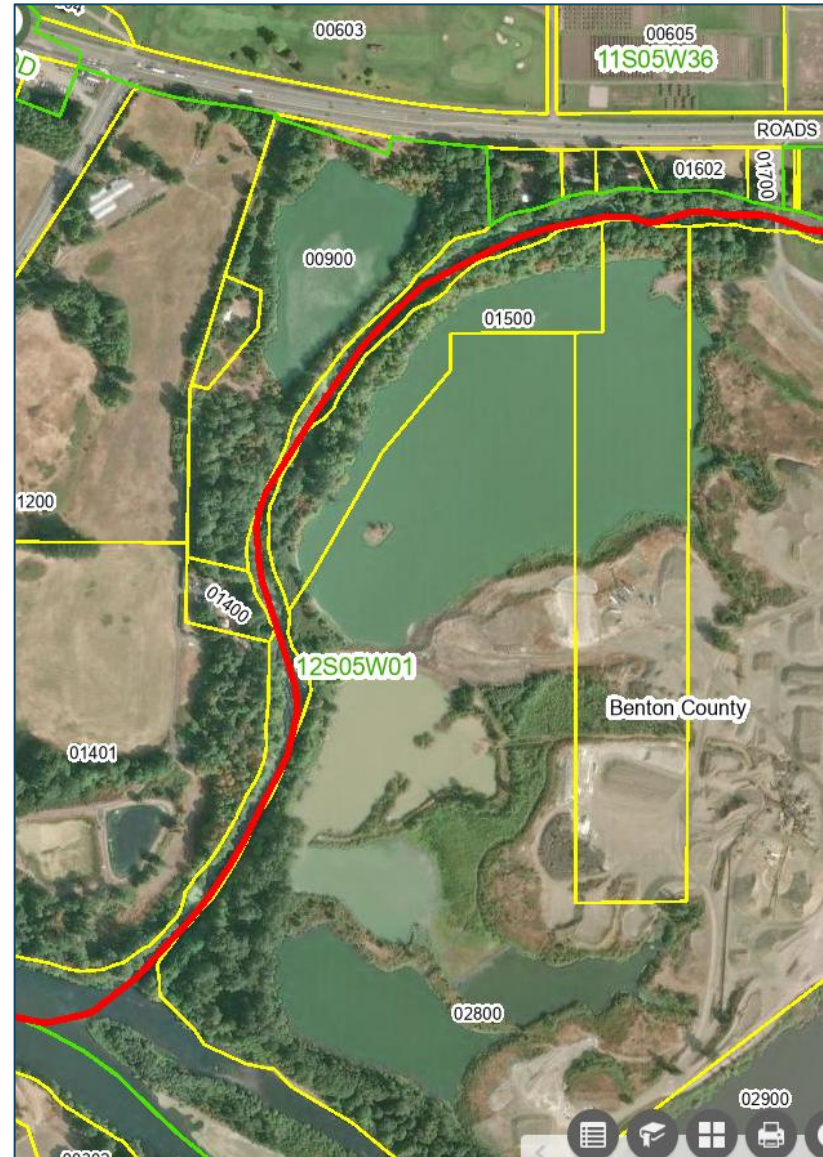
Accreted land belongs to the upland owner where the accretion began.

Sea River Case



Rule of Avulsion

When avulsion occurs, the property boundary remains the same.



The End

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