

SB 74: NAVIGABILITY



Senate Committee On Natural Resources and Wildfire
March 13, 2025

Oregon-Owned Waterways

Owned by the people

**Open for all to use
and enjoy**

**Overseen by the
Department of State
Lands on behalf of
the State Land Board**



Oregon-Owned Waterways

**Public Trust Doctrine
protects rights of
navigation, fishing,
commerce and
recreation**

Compensation for use

**Stewardship of
waterways**





MAP OF OREGON-OWNED WATERWAYS
Online map and list at Oregon.gov/DSL
[Click HERE](http://Oregon.gov/DSL)

**HOW WATERWAYS
BECOME
OREGON-OWNED**

At Statehood

Navigable and tidally influenced waterways used for trade and travel, including:

Territorial sea

Coastal bays and estuaries

Coastal rivers to head of tide

Since 1859

Waterways are determined to be “navigable-for-title” and Oregon-owned through:

Court decisions

State laws

Navigability declarations by the State Land Board

Navigability Declarations

Must Answer Two Key Questions:

- 1. Could the waterway have been used for trade and travel at the time of statehood?**
- 2. What *exactly* is Oregon-owned?**

**RIVER OWNERSHIP:
A COMPLEX,
COSTLY CHALLENGE**

Why?

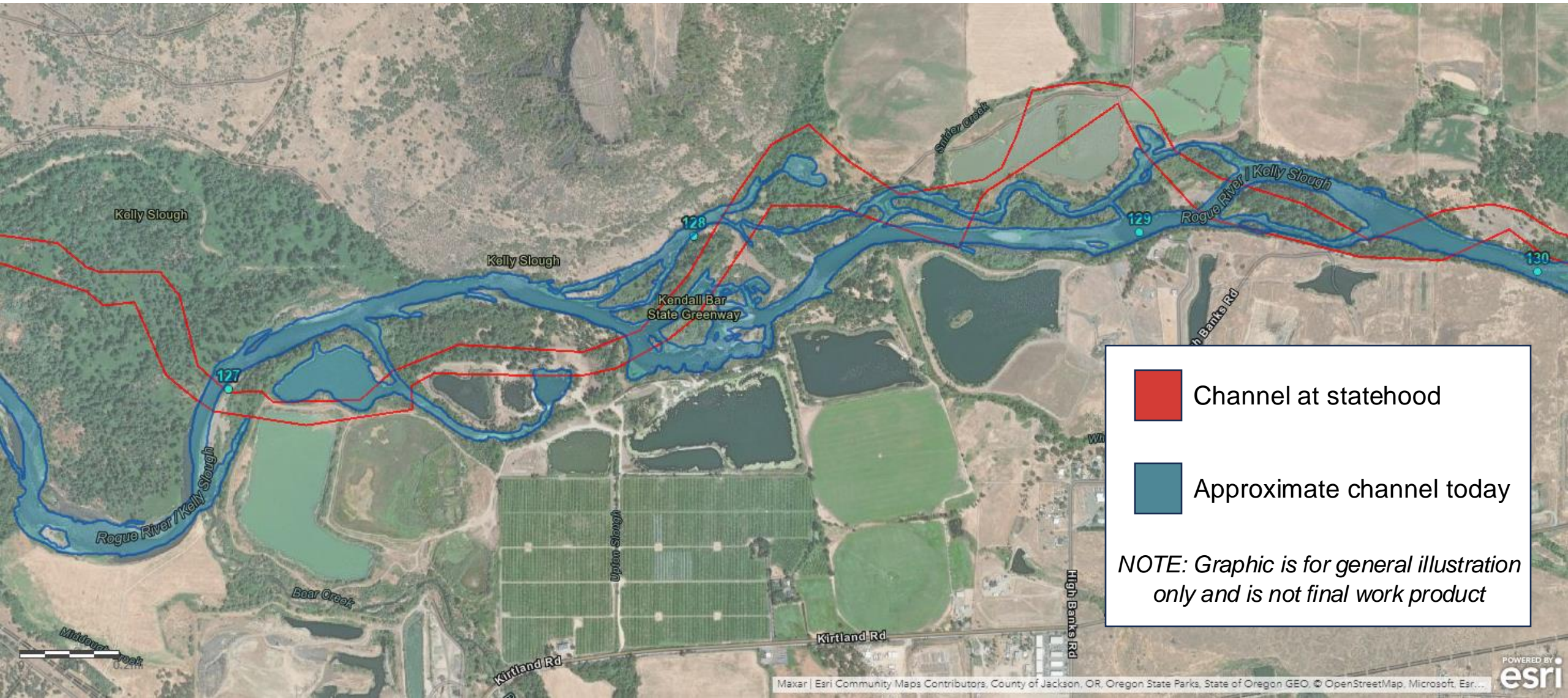
State ownership is typically the riverbed and riverbank to the line of ordinary high water

BUT...

Rivers change over time



Rogue River: Then and Now



How Rivers Change Matters

Under principles of common law:

When change happens gradually, the property boundary shifts with the river channel.

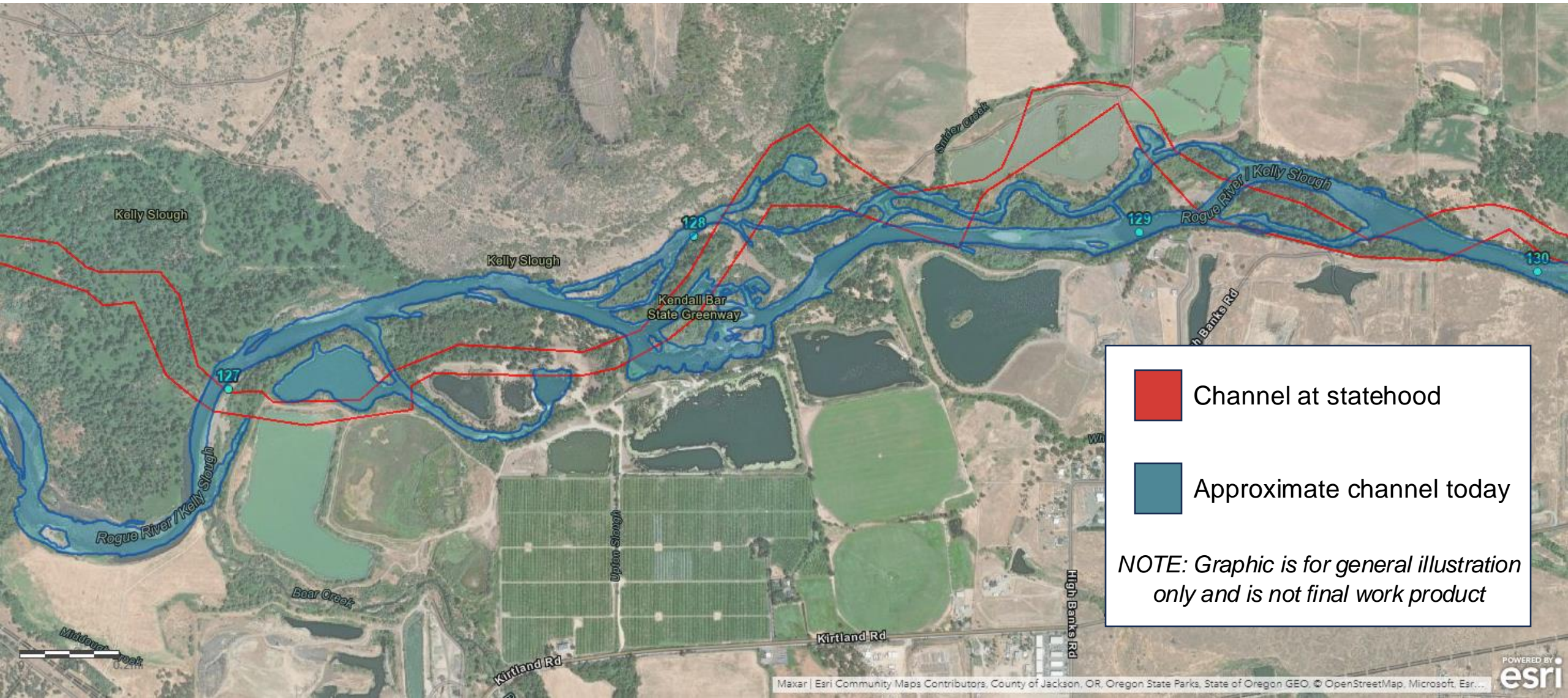
When change happens suddenly, due to flooding or people adding/removing materials, the property boundary stays where it was immediately before the sudden change.



The Problem: Part One

To declare a waterway navigable-for-title and Oregon-owned, existing law *requires* the state to exactly map **ALL** gradual and sudden changes *since statehood*

- Lengthy, costly mapping process
- Property boundaries depend on type of change, creating uncertainty and confusion
- For sudden changes:
 - State may own what's now dry land far from the river
 - Private party may own riverbed and bank

Rogue River: Then and Now



-  Channel at statehood
-  Approximate channel today

NOTE: Graphic is for general illustration only and is not final work product

The Problem: Part Two

Exchanging land to ensure public ownership of riverbeds and banks must by law occur AFTER exact mapping is complete and the Land Board declares a river navigable and Oregon-owned

- **Legal challenges and appeals can follow a navigability declaration**
- **Extended uncertainty for adjacent private landowners, potential impacts to land sale or improvements**

Solution

Statutory changes to:

- **Provide a straightforward option for declaring Oregon ownership as the current riverbed and bank to the line of ordinary high water**
- **Retain performing exact mapping of all change since statehood as an option, to provide flexibility for adjacent property owner preference and to avoid unlawful taking of property**

Benefits

Statutory changes will result in:

- **More certainty for state and adjacent property owners**
- **Less costly process for state and adjacent property owners**
- **Potentially faster process**
- **Overall, fewer state resources needed for navigability declarations**

Forthcoming Amendment

-2 amendment provided for discussion, additional language is forthcoming and includes:

- **Page 1, line 19: Add "In addition, notwithstanding ORS 273.780, the Department may convey the mineral and geothermal resource rights of property exchanged."**



QUESTIONS?