

Oregon Ocean Policy Advisory Council

Meeting Summary

Meeting of November 28, 2006

Depoe Bay Community Center, Depoe Bay, Oregon

Executive Summary

Issues Decided/Positions Taken:

A consensus decision was made to approve the amended National Marine Sanctuary status report to the Governor.

A consensus decision was also made to submit the NMS status report under a cover letter that also expresses the council's desire to fill all council seats.

Action Items:

Executive Committee:

Review NMS status report prior to submittal to Governor.

Working Groups and Chairs:

Develop work plans and budgets for January 29-30 meeting; budgets are key for the state budget process.

National Marine Sanctuary Working Group:

Review NMS status report prior to submittal to Governor.

Federal Liaison Committee Chair (Cathy Tortorici):

Compile a listing of OPAC opportunities related to federal initiatives.

Jim Good: Make changes in draft NMS status report pursuant to OPAC directions as is feasible

David Allen: Draft paragraph for NMS status report transmittal letter addressing issue of unfilled OPAC seat.

Terry Thompson: Supply David Allen in timely fashion with additional verbiage for transmittal letter.

OPAC Staff:

Finalize NMS status report and oversee review process to completion by December 15.

Distribute Oregon wave energy siting report by EPRI to OPAC members.

Next Meeting:

January 29-30, 2007; location Port Orford.

Meeting Detail

Attendance:

Members Present (voting): **David Allen** (Public at Large); **Jim Bergeron** (Ports, Marine Transportation, Navigation); **Jack Brown** (Coastal City Elected Official); **Paul Engelmeyer** (Statewide Conservation or Environmental Organization); **Jim Good** (Public at Large); **Robin Hartmann** (Coastal Conservation or Environmental Organization); **Scott McMullen** (North Coast Commercial Fisheries); **Jim Pex** (South Coast Charter, Sport or Recreational Fisheries); **Fred Sickler** (Coastal Non-Fishing Recreation); **Terry Thompson** (North Coastal County Commissioner); **Frank Warrens** (North Coast Charter, Sport or Recreational Fisheries).

Members Present (*ex officio*): **Patty Burke** (Department of Fish & Wildlife); **Jessica Hamilton** (Governor's Office); **Onno Husing** (Oregon Coastal Zone Management Association); **Jeff Kroft** (Department of State Lands); **Vicki McConnell** (Department of Geology and Mineral Industries); **Greg Pettit** (Department of Environmental Quality); **Jay Rasmussen** (Oregon Sea Grant College).

Members Absent: **Brad Pettinger** (South Coast Commercial Fisheries); **Dalton Hobbs** (Department of Agriculture); **Robert Kentta** (Oregon Coastal Indian Tribes, lacking Senate confirmation); **Lane Shetterley** (Department of Land Conservation & Development); **Tim Wood** (Parks & Recreation Department); South Coastal County Commissioner (**seat vacant**).

Committee/Working Group Members: **Cathy Tortorici**, (NOAA Fisheries); **Laurel Hillmann** (Oregon Parks & Recreation Department); **Martin Hudson**, (US Army Corps of Engineers); **Hal Weeks** (Oregon Department of Fish & Wildlife).

Invited Speakers: **Jim White** (Mayor of Depoe Bay); **David Van't Hof** (Governor's Sustainability Advisor).

Staff: **Greg McMurray** (Department of Land Conservation & Development); **Steve Shipsey** (Department of Justice, OPAC Counsel); **Jane Barth** (National Marine Sanctuary Working Group facilitator).

Observers (with affiliation if provided): **Peter Stauffer** (Surfrider Foundation); **Peg Reagan** (Conservation Leaders Network); **John Griffith** (Coos County Commissioner); **Carolyn Waldron** (Oregon Ocean); **Steve Bodnar** (Coos Bay Trawlers Association); **John Rose, Loren Goddard**, (Depoe Bay Near Shore Action Team); **Fran Recht** (Pacific States Marine Fisheries Commission); **Walter Chuck, John Holloway** (RFA/Oregon Anglers); **Rick Beasley, Larry Steidle** (Depoe Bay Beacon); **Terry Dillman** (Newport News Times); **Bernie Bjork** (Lower Columbia Alliance for Sustainable Fisheries); **M. Kay Moxness** (Central Lincoln PUD); **Representative-Elect Jean Cowan**; **Finlay Anderson** (Longview Associates); **Dan Marvin** (fisherman);

James Golden (Golden Marine Associates); **Karen Rose** (Depoe Bay); and **Craig McMicken, Joanne McMicken** (Heceta Head Coastal Conference, Inc.).

Total recorded attendance: 49.

Meeting Minutes:

Morning Session

The meeting was brought to order by Chair Scott McMullen at 9:04 a.m., and Mayor Jim White welcomed the council to the community of Depoe Bay. Scott also expressed his great appreciation for the hospitality given by the Depoe Bay Nearshore Action Team.

Introductions:

The OPAC members introduced themselves and stated their affiliations.

Review and Approval of Summary of October 10, 2006, OPAC Meeting (Scott McMullen):

David requested that the language describing his discussion of the south county seat in the summary "expressed his personal discomfort with the unfilled seats" be changed to "expressed his concern over the unfilled seats." The council approved the amended summary by consensus.

Science Advice to OPAC: STAC Membership Nominations (Jay Rasmussen):

Jay distributed a [summary of the first meeting of the STAC](#), which was a retreat on November 6. At the all day meeting, the committee familiarized themselves with OPAC's mandate and considered how to advise the council effectively. The STAC considered preliminary questions posed by the Marine Reserves Working Group and the issue of an ocean information system. The STAC intends to meet three times a year and will respond to all questions posed by the council through the appropriate process, as described by Jay. The next STAC meeting will be in the spring, and may be tied to a yet-to-be-defined workshop on ocean mapping.

Update from the Governor's Office on OPAC-Related Issues (Jessica Hamilton):

Jessica reported that the Governor was presently in Afghanistan, visiting troops there. The Governor's recommended budget for the '07-'09 biennium will be presented immediately upon his return. Modest resources for OPAC are built into agency budgets, but there are no major budget packages for OPAC in the recommended budget. However, there may be some opportunities in the budget process to "add back" some support for specific OPAC efforts, like marine reserves. Additionally, OPAC members can lobby the legislature themselves, apart from the recommended budget.

Jessica also updated the council on ongoing efforts to better define the scope of the West Coast Agreement on Ocean Health among Washington, Oregon and California. The states will work together to find appropriate initiatives that can be furthered under this agreement, especially in relation to federal policies and funding.

Vacant County OPAC Seat (David Allen):

David circulated a history of the two-year long effort to resolve the issue of a member representing the South Coast County Commissioners, as stipulated in OPAC's enabling legislation.

Summary of Draft National Marine Sanctuary Status Report (Jim Good):

Jim summarized the [draft status report](#) as it stands, and described the changes made pursuant to the last OPAC meeting, to prepare them for the day's consensus-building sessions. The draft report makes no conclusions or recommendations, but makes findings (only) in the areas of fisheries management and general governance. Several council members expressed appreciation for the huge effort put forth by Jim in writing and collating comments to develop this draft.

How to Reach Consensus (Jane Barth):

Jane gave a short [Powerpoint presentation](#) to remind the council members how to be successful with the consensus process, working towards a specific goal in a limited period of time.

Consensus-Building on the Tone, Language and Content of the Draft NMS Status Report (Jane Barth):

Jane began by outlining the task in front of OPAC: to reach consensus (as earlier defined) on the status report to the Governor on his national marine sanctuary proposal. The first show of hands reflected that many members were not ready to sign off on the existing draft, and Jane then went around the table, documenting the remaining issues by beginning with those members not ready to sign off. The following issues emerged as needing resolution in the final product:

- terminology (definitions for jargon and acronyms, like MPA and marine reserve);
- acronyms for agencies with authorities;
- consistency and clarity in Table 1, with respect to regulations and prohibitions on activities under the authority of the sanctuary designation documents, as additions to sanctuary authorities, or under other authorities; and
- conflicting treatment between Table 1 and the text.

The discussion of the draft report was tabled until the afternoon session's continuation, so that public comment could be received at the announced time.

Public Comment:

Walter Chuck (RFA/Oregon Anglers): Walter addressed the issue of process for marine reserves, suggesting efficiencies in obtaining public input, and expressing concern for the use of private funds and the transparency of the process.

Craig McMicken (Heceta Head Coastal Conference, Inc.): Craig reported on the success of the second annual Heceta Head Coast Conference, which showcased OPAC issues, and he asked for future support and interest.

John Holloway ((RFA/Oregon Anglers): John expressed his disagreement with the preservationist philosophy versus the conservation philosophy related to the establishment of marine reserves.

Peg Reagan (Conservation Leaders Network): Peg took issue with some of the details in the raising of the vacant south county commissioner seat issue, citing quotations in two of the letters in the packet distributed by David Allen.

Bernie Bjork (Lower Columbia Alliance for Sustainable Fisheries): Bernie expressed his disapproval of “mission creep” in the NOAA Sanctuaries program, and cited the historical efforts of the region’s fishers to establish scientific programs themselves.

Fran Recht (Pacific States Marine Fisheries Commission): Fran suggested that the status report simply refer to the NOAA web site www.mpa.gov for its definitions and background information.

Luncheon Address

David Van’t Hof (Governor’s Sustainability Advisor):

David briefly summarized the status of the multiple developments related to wave energy in Oregon. Entities or initiatives now involved in wave energy development include:

- OPAC, whose role is seen as long-term, and perhaps related to consideration of the cumulative effects of numerous developments;
- the Oregon Solutions Process, at the Governor’s initiative, for the Gardiner Wave Energy Project of Ocean Power Technology, convened by State Senator Joanne Verger and Port of Umpqua Manager Keith Tymchuk;
- the Oregon Wave Energy Trust, a wave energy advocacy to be formed as a successor to the POWER group, under the funding recommended by the Oregon Investment Council;
- the state agency group convened under the Oregon Solutions Process to consider an analog to the Hydroelectric Application Review Team (HART) process, which coordinates the state’s input to the FERC hydroelectric licensing process;
- the Marine Cabinet that advises the Governor’s Natural Resources Office;
- rulemaking for wave energy use of the seabed in the Territorial Sea of the Department of Sate Lands for the State Land Board;
- the continuing effort at establish a national wave energy research and development center through Oregon State University;
- preliminary permit applications to the Federal Energy Regulatory Commission by two coastal counties (Lincoln and Douglas) for the extent of the Territorial Sea contiguous to their coastline;
- a rulemaking effort by the Minerals Management Service, concerning alternative energy uses of the ocean outside the Territorial Sea in the Exclusive Economic Zone; and
- a December 6 hearing by the Federal Energy Regulatory Commission on the applicability of its hydropower licensing rules to alternative forms of energy development. The state of Oregon will testify at that hearing that it wants FERC to assist the development of wave energy by eliminating licensing roadblocks.

Some discussion ensued between David and the council on the anticipated interactions of these many moving parts, and how to minimize the uncertainties that will inhibit investment in the development of the industry. Potential conflicts or opportunities for ocean zoning between the new industry and the fishing commercial and sport industries and marine reserves were of great interest to council members.

Afternoon Session

Consensus-Building Session on the Draft National Marine Sanctuary Status Report: (Jane Barth):

The council resumed discussion of the draft report, with the *ex officio* members weighing in. The list of issues to be resolved was extended with those following:

- negative or positive, as opposed to neutral, tone in many instances;
- the consideration of options for smaller areas than the Ocean Stewardship Area for NMS nomination;
- accuracy of, and references for, many statements of fact that might be questioned;
- the amount of public input actually received by OPAC on the NMS proposal;
- the clarity of the report in terms of presenting findings versus conclusions and/or recommendations, and hence, the clarity of the message given in the report;
- the use of appropriate existing national marine sanctuaries as examples in the report (e.g., geographic locale or amount originally in state versus federal jurisdiction);
- the cost of sanctuary operation, especially for a very large area (~21,000 mi²);
- explicit versus implicit conclusions;
- the extent to which the report directly answers the questions posed by the Governor in his September 29 memo asking for the status report; and
- the content and tone of the executive summary.

David Allen was unwilling to support any significant council action because of the vacant South Coast County Commissioner seat. It was agreed after some discussion to address that issue in the letter of transmittal. The council then agreed unanimously to support the status report with appropriate changes to reflect the issues raised during the preceding discussion. David agreed to draft a transmittal letter that expressed that council's concern for decisions made without full council representation. The council subsequently agreed by consensus to submit the report to the Governor under this letter of transmittal as agreed with David Allen.

Jim Good will make as many changes as feasible between this OPAC meeting and his impending trip out of the country. Staff (Greg McMurray and Steve Shipsey) will complete the draft, including generation of an executive summary consistent with the text, and then seek concurrence on the final product from the National Marine Sanctuary Working Group and the Executive Committee. David Allen, with assistance from Terry Thompson, will draft the letter of transmittal. The status report and transmittal letter will be posted on the OPAC web site immediately after they are delivered; the target date is December 15, 2006.

Update on the Marine Reserves Working Group (Frank Warrens):

Frank very briefly reported on the MRWG meeting conducted during the afternoon of the prior day. The highlight of the meeting was discussion of the letter to the STAC drafted by Hal Weeks, and discussions with Jay Rasmussen, Dave Sampson and Craig Young about how to address those questions. Frank anticipates ensuing meetings engaging the

issues of work plan, timeline and budget. The next MRWG meeting will take place on the day preceding the next OPAC meeting.

Update on the Wave Energy Working Group (Robin Hartmann):

Robin reported on the WEWG meeting conducted during the morning of the prior day and specifically addressed OPAC's possible role in developing wave energy in Oregon. She reviewed in some detail Section 2 of the Territorial Sea Plan, which keys on the process required for the state to legally allow major ocean activities, including the need inventories and effects analysis. The section on Limited Environmental Disturbances (LED) seems very applicable to the incremental implementation of wave energy, as does the Joint Review Panel (JRP) seem applicable to the complex, interagency aspects of this evolving industry.

Robin also discussed the various entities that are now involved in wave energy in Oregon, following on David Van't Hof's lunch time presentation. OPAC's role seems most appropriate to the longer term analysis of policy, especially the consideration of possible future cumulative effects.

Date, Location and Agenda Items for Next OPAC Meeting (Scott McMullen):

The next OPAC meeting will take place in a coastal city on January 29-30, 2007.

New Issues Raised by OPAC Members:

No new issues were raised by members at this OPAC meeting.

Public Comment:

Peg Reagan (Conservation Leaders Network): Peg explained her understanding of the impasse over the vacant South County Commissioner seat on OPAC, and recommended that the council concentrate on its job and leave resolution of the seat to the parties involved.

Steve Bodnar (Coos Bay Trawlers Association): Steve cautioned the council to beware of environmental organizations offering fishing permit buyouts that could have unintended consequences.

Lauren Goddard (Depoe Bay Nearshore Action Team): Lauren expressed his appreciation that OPAC is so concerned with public input and that it is the appropriate venue for ocean issues.

Fran Recht (Pacific States Marine Fisheries Commission): Fran suggested the council separate out consideration of fisheries management under the Regional Councils' Fisheries Management Plans versus under the National Marine Sanctuaries, citing the issue of water column fisheries in the Channel Islands NMS as an example.

Meeting adjourned by Chair Scott McMullen at 4:39 p.m.