

OPAC PRESENTATION
Two Case Studies in Marine Protection: What Oregon can Learn
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Summary of Presentation

- Portland Audubon recently provided testimony to OPAC. Attached to our testimony was a summary I prepared with permission from the authors of a groundbreaking Report to the federal MPA office, called *Lessons Learned from Recent Marine Protected Areas Designations in the United States*.
- The Report, by the way, was not limited to marine reserves or national marine sanctuaries. It looked at all forms of protection.
- Today, I want to share two stories from the Report and then consider the applicability of major themes that emerge to Oregon's efforts.

Case Study #1: The Northwest Straits

- NW corner of Washington State
- Approximately 430 miles, including San Juan Islands
- Area supports tourism, several active fisheries, and domestic and international shipping traffic.
- Population is over one million people.
- Seven counties and several federally recognized Indian tribes.

History

- 1983, NOAA identified a portion of the Northwest Straits, located entirely in state waters, as a potential national marine sanctuary.
- Six years later, public meetings began
- Although strong and sustained support from non-governmental organizations and some community members, national sanctuary proposal met with fierce opposition.
- Without clear understanding of the benefits, even supporters began to question the merits of the program and whether they were worth the concept's divisiveness among community members.
- Indian tribes, with enormous interests at stake through their treaty rights to many of the area's fisheries resources, largely sat on the sidelines.
- In 1994, when all seven county commissions voted to oppose a national marine sanctuary in the Northwest Straits.
- In 1996, amid intensive lobbying for and against the sanctuary, Senator Patty Murray (D. Wash.) and Representative Jack Metcalf (R. Wash.) formed a bipartisan committee that developed an alternative based on a local, county-level approach to marine conservation.
- At the same time, San Juan County established bottomfish recovery zones (BRZs), voluntary measures to protect depleted bottomfish populations.

- The Murray-Metcalf Commission devised a seven county, “bottoms-up,” federally-funded, voluntary program integrated through the coordinating leadership of the Northwest Straits Commission, and funded via a direct Congressional appropriation through the National Marine Sanctuary Program
- The initiative supplanted the sanctuary concept with county-controlled, non-regulatory activities.

Key issues

- “Top down” approach in a strongly independent community, causing a backlash of anti-federal, pro-local control political climate
- Proposed sanctuary located entirely in state waters
- Unclear federal goals and midstream leadership changes
- Uncertain need for (and benefits of) a sanctuary vs. clear need for bottomfish protections.
- Local constituencies energized by a failed sanctuary effort.

Lessons

- Determine ahead of time what problem a sanctuary is designed to address;
- Establish clear goals and straw proposals;
- Exercise effective leadership at the political and process levels
- Transform a distant, federal initiative into a locally-driven effort that inspires broad-based grassroots support.

Current issues

- Bottomfish Recovery Zones are "no-take" areas in which fish can grow to maturity and reproduce. In an effort that depends on voluntary compliance, some fishermen continue to fish in the Recovery Zones.

Case Study #2: Tortugas Ecological Reserve

- The Tortugas are a cluster of remote islands in the Gulf of Mexico, 70 miles west of Key West, Florida and at western edge of the Florida Keys National Marine Sanctuary
- At the confluence of major currents: the Loop Current comes out of the Gulf of Mexico and the Florida Current comes out of the Caribbean Sea, which are channeled through a narrow pass between the Florida Keys and Cuba.
- Unique and biologically diverse marine habitat, including coral reefs, seagrass meadows, and rookery islands
- Favorite area for divers; commercial and recreational fishing activities.

History

- In 1990, The Florida Keys National Marine Sanctuary was designated. It includes 2,800 square nautical miles of critical marine habitat, including coral reef, hardbottom, seagrass meadows, mangrove communities and sand flats.
- In 1992, the Dry Tortugas National Park was established to protect a 100 mi park of marine resources and islands, as well as preserve historic Fort Jefferson, built on the largest island.
- The Sanctuary is managed under cooperative agreement between the State of Florida and NOAA
- In 1997, a management plan for the Sanctuary established five types of zones throughout the sanctuary, including 'ecological reserves,' which are protected 'no-take' zones in which extractive activities are prohibited.
- During the management plan development and consideration, the Tortugas were proposed for an ecological reserve. The concept was rejected for a number of reasons:
 - significant coral resources were not included in the proposed boundaries
 - fears that the reserve would cause economic harm to commercial fishing interests and other stakeholder groups
 - confusion and uncertainty regarding the scope and impact and boundaries of the reserve
- In 1998, Sanctuary managers initiated a collaborative process that became known as Tortugas 2000
- Tortugas 2000 was launched with the establishment of a broad-based, 25 member ad hoc Working Group composed of stakeholder representatives, eight Sanctuary Advisory Council members, and federal and state government representatives with resource management authority in the Tortugas area. (Other federal and state agencies with jurisdiction of the involved waters had to approve the plan too, including: Dry Tortugas National Park, the Gulf of Mexico Fisheries Management Council, and the state of Florida. Representatives of each of these were on the working group)
- Authorized by the Sanctuary Advisory Panel (SAC), the Working Group was led by a facilitator and worked quickly.
- Over the course of just five meetings, the Working Group established and weighted criteria to determine the size and location of zoning areas, assessed

scientific and economic information in GIS format, and came to consensus on the specific location, size and boundaries of two ecological reserves to recommend for approval by the SAC.

- Following the approval by the SAC, the Gulf of Mexico Fishery Management Council, Florida Fish and Wildlife Commission, State of Florida, and NOAA supported the reserve.
- North and South Tortugas Ecological Reserve was fully implemented in July 2001, and includes 151 square nautical miles of rich, deep coral bank communities, including very deep water--down to about 2,000 feet of deep-water habitat.

Lessons:

- Like many similar efforts, the Tortugas 2000 process was defined by what happened before, including the controversial establishment of the Sanctuary and the failed attempt to include more reserves in the area.
- As a result, by the time of the effort, there had been time to analyze the missteps that occurred previously.
- Organizers recognized that it was important to establish a Working Group that was as broadly representative as possible – more so than prior advisory or working groups. For example, five separate fishing interests were identified and represented (commercial, handline lobster, Cuban-American, charter, spear, and recreational), ensuring that more nuanced perspectives were fully heard and incorporated into the development of proposals. The absence of some of these groups from the initial effort to designate reserves was reported to hamper that process.
 - Each Working Group member had authority to actively represent his or her stakeholder group. As such, members were identified and acknowledged as leaders to those they intended to represent, and were held accountable for their commitments. Each member was asked if he or she could, in fact, speak for a constituency, and efforts were made throughout the process to ensure that members were interacting and receiving feedback from those they represented.
 - The Working Group started with eight members of the SAC, and other individuals were identified to fill the remaining categories. In addition, the Working Group also included representatives from each of seven overlapping jurisdictions involved in the Tortugas, as well as scientists.
 - Rather than organize constituents into separate individual panels or groups, as often occurs in similar processes, participants were integrated to facilitate communication and trust building between factions.
- The original reserves concept was completely withdrawn, providing stakeholders with a virtual blank slate from which to work.
- The act of “starting over” created good will as interest groups now felt more in control and more confident of their ability to create a reserve derived from stakeholder prerogatives. These elements, when combined with the perception that a less-liked alternative would resurface if the Working Group did not come up with a viable plan, was strong motivation for success.

- Use of a professional facilitator who was viewed as a “neutral party” by all stakeholders and who was not part of the existing institutional structure, to quickly gain trust and bring a fresh perspective and approach.
 - The facilitator was instrumental in helping participants identify core interests that underlay their stated positions.
 - He also quickly designed and implemented an effective consensus-building process, ensuring that all members were engaged and involved and that decisions were credible and robust.
 - Because he was clearly not identified with any agency history or position, he was able to provide the kind of neutrality (in terms of both process and outcome) that government representatives typically cannot.
 - Important that facilitator have knowledge of processes to assess stakeholder interests and ensure broad representation is fundamental to success.
- Clearly identify and agree on goals early but note that different from most MPA processes, the premise of the Tortugas 2000 process was that an ecological reserve would be established somewhere within the Dry Tortugas region. The intent was to support other goals such as fisheries management, but always within the context of an “ecological reserve.”
- Working Group efforts focused on size, location, and conditions of the ecological reserve, but not whether a reserve was appropriate in the first place.
- Thus the goal – to designate reserves in the Tortugas – was not questioned because the goal was broadly perceived as mandated by federal law
- As a result, the process focused on the more productive question of “how” to construct a reserve rather than the often more divisive threshold question of “whether or not” such a reserve was appropriate.
- The more focused ecosystem based goal was also achieved through public outreach efforts engaged in by proponents of the reserve. Grass roots efforts in support of the broad goal of a reserve were well under way by the time Tortugas 2000 was launched.
- Both traditional science and fishermen’s knowledge were equally important
- Everyone agreed that the preparation and presentation of numerous types of technical information was integral to the Working Group’s ability to make sound recommendations.
- The information included oceanic, biological, socioeconomic, and fisheries information presented by scientists and stakeholders.
- While the majority of scientific information was provided during two special forum presentations, scientists sat next to fishermen, conservationists, and managers throughout the process.
- The resulting ability of scientists and stakeholders to continuously interact and provide immediate feedback on issues raised around the table helped to build the sense that scientists were there to help the process rather than merely act as another stakeholder.
- The informational forums allowed community members and other stakeholders to share their knowledge and experience with the Working Group, managers, and

scientists. This broad-based information exchange was extremely beneficial to the process.

- The value of the community input was equal to that of traditional scientists; the fact that anecdotal stakeholder knowledge was used directly and given equal weight was key to subsequent discussions and consensus building.
- Fishermen reported feeling more involved as compared to other processes, and that their “unscientific” but no less valuable knowledge was respected.
- GIS was used very interactively during Working Group sessions and was uniformly praised. The ability to quickly and graphically portray new information empowered the Working Group to make decisions. An extensive database was compiled and information was quickly processed for presentation. In particular, for the first time data showed use patterns in addition to biological information. This allowed the Working Group to better identify what needed to be protected, and balance those protections with fishery uses.
- When it came to recording individual preferences for potential boundaries, however, the old fashioned approach proved better than GIS. A manual method using an acetate overlay on top of the grid cell was employed, and resulted in participants working together over paper charts, sharing stories and perspectives and, according to one observer, avoiding the negative effect GIS can have on people’s ability to have a direct sense of ownership over the map building process. Each Working Group member drew out preferred boundary configuration, and the overlays were shared with the group via overhead, or provided to staff to use in GIS products.
- From the start, many of the users (particularly fishermen) wanted to know where managers thought the ecological reserve boundaries should be. They were familiar with other management processes where several options – with maps – were presented and debated, rather than created with their input. To their credit, the sanctuary managers remained silent, empowering and ultimately compelling stakeholders to do the work of determining the reserve parameters. Managers would not even offer ballpark estimates of the size or location that should be protected, nor what the regulations should contain – in public or private.
- This approach may not work in other cases where trust is not established and where stakeholders may not be as familiar with the geographic area or relevant resources. Here managers benefited from lessons learned from their earlier efforts, and understood that speculating on the potential boundaries would taint the process and put stakeholders on the defensive, trying to protect what they may have considered their turf or territory.
- Almost everyone involved agreed that the Tortugas 2000 process represents how a successful consensus building process can work when a skilled facilitator is paired with motivated participants in an environment of trust and empowered by a clear mandate. Building upon efforts leading up to the process and the wise decision among sanctuary managers to not attempt to predetermine or shape the outcome, participants were free to be proactive and creative rather than reactive and defensive.
- Success in the Tortugas may also be attributed in part to the fact that most participants had some first hand experience with no-take reserves, and thus

perhaps feared the concept less than in other regions. Moreover, trust was established and more positional bargaining avoided with agreements such as the one between fishermen, who agreed not to “whack and hack” proposals, and conservationists who agreed not to “pad and add.”

Current issues:

A study released in January 2006, carried out over a five-year period of monitoring, found a marked increase in the abundance of large fish within the Reserve relative to the Out and Park strata, across years and that relaxation of trawling pressure has increased benthic biomass and diversity

Major Themes from the Case Studies

1. How can decision-makers best “set the stage” for establishing marine protection?
2. What are the key components of an effective process?
 - Effective leadership
 - Working with and involving stakeholders
 - Understanding and planning for the role of scientists and mapping
 - Providing for facilitation, including conflict management

Appendix 1: Chart of the Case Studies

Case	History	Goals	Participants	Group structure	Rules
San Juan County Northwest Straits bottomfish recovery zones	Earlier failed federal effort	Original federal effort not specific Subsequent local effort focused on groundfish	Local governments, agencies, residents	Federal/State-led public meetings to vet sanctuary led to county-formed Marine Resources Committees and umbrella NW Straits Commission	None formalized
Tortugas	Earlier sanctuary designation Earlier reserve designation effort unsuccessful	Initially vague, then focused on protecting specific habitats	All major stakeholders	Single multistakeholder group	Formal ground rules

Appendix 2: Oregon's history with marine protection

- In 1973 the legislature established a statewide land-use program and created the Land Conservation and Development Commission (LCDC) to develop a set of statewide planning goals to guide local government planning and state agency programs. 14 statewide goals were adopted in late 1974.
- In 1976 LCDC adopted four specific coastal planning goals: Goal 16, Estuarine Resources; Goal 17, Coastal Shorelands; Goal 18, Beaches and Dunes; and Goal 19, Ocean Resources.
- Goal 19 was developed amid concerns about federal offshore oil and gas drilling and regional concerns about foreign fishing fleets and overfishing on or near the US continental shelf. The Ocean Resources Goal established a priority for renewable resources, emphasized optimum-yield management for fisheries, and established a decision-making process that required adequate inventory information and the assessment of impacts from development actions.
- Between 1973 and 1987 the state's land-use program emphasized completion of local city and county land-use plans to meet land development and urban growth issues covered by Goals 1-18.
- Because ocean issues were beyond local government authority and generally not of concern, the plans of coastal local governments did not address ocean resource issues or Goal 19 and the LCDC gave little direction to state or federal agencies regarding the implementation of Goal 19.
- However, federal initiatives in the early 1980s to create a 200-mile-wide U.S. Exclusive Economic Zone, lease for deep-sea mineral resources, and explore for oil and gas on the outer continental shelf caused Oregon to pay close attention to Goal 19 and how it might be applied.
- The 1987 legislature established the Ocean Resources Management Task Force to prepare a plan for ocean resources management.
- In 1990, the Task Force developed the Ocean Plan which the LCDC subsequently adopted as part of the state's federally-approved coastal management program. The Ocean Plan did not provide detailed guidance to administer Goal 19 or tell how specific areas or activities in Oregon's territorial sea should be managed.
- A principal recommendation of the Ocean Task Force to the Oregon Legislature was to create an Ocean Policy Advisory Council to prepare a plan for the territorial sea.
- The 1991 Oregon Legislature established the Ocean Policy Advisory Council (OPAC) to prepare a plan by July 1, 1994 for managing the resources and activities in the state's territorial sea.
- The Territorial Sea Plan is very different from the Ocean Plan in that it provides detailed guidance to state and federal agencies in managing the area from 0-3 miles while, by contrast, the Ocean Plan addressed the entire 200-mile US Exclusive Economic Zone with emphasis on an ocean stewardship area (0-50 miles) generally covering the continental shelf and slope.