

Oregon Ocean Policy Advisory Council

Meeting Summary Meeting of April 19, 2007 Port of Umpqua, Reedsport, Oregon

Executive Summary

Issues Decided/Positions Taken:

The Council made consensus decision to draft and send a letter in support of the Parks and Recreation Department Coastal Resource Planner position that supports the Marine Reserves Working Group.

The Council made a consensus decision to conduct a public workshop on the West Coast Governors' Agreement on Ocean Health as part of the OPAC meeting in Tillamook on Tuesday, July 17, 2007.

The Council made a consensus decision to support the action items listed in the STAC report - mapping the physical, biological, and socio-economic characteristics of the Oregon coast.

Action Items:

OPAC Members: If members have anything to add or clarify regarding the discussion of Coastwide Framework Goals for Marine Reserves, please comment on the discussion paper to Jim Good by June 1, 2007.

OPAC Staff:

Post FERC web site URL germane to wave energy information on the OPAC web site.

Work on speaker slate for the next meeting, adding Steve Gaines to the list.

Next Meeting:

Tuesday, July 17, 2007; in Tillamook.

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); **Brad Pettinger** (South 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): **Jonathan Allan** (Department of Geology and Mineral Industries); **Bob Bailey** (Department of Land Conservation & Development); **Patty**

Burke (Department of Fish & Wildlife); **Jessica Hamilton** (Governor's Office); **Laurel Hillmann** (Parks & Recreation Department); **Onno Husing** (Oregon Coastal Zone Management Association); **Greg Pettit** (Department of Environmental Quality); **Jay Rasmussen** (Oregon Sea Grant College); **Louise Solliday** (Department of State Lands).

Members Absent: **Dalton Hobbs** (Department of Agriculture); Oregon Coastal Indian Tribes (**seat vacant**); South Coastal County Commissioner (**seat vacant**).

Committee/Working Group Members: **Cristen Don** (ODFW); **Jim Hastreiter** (Federal Energy Regulatory Commission); **Selina Heppell** (Oregon State University); **Paul Klarin** (DLCD); **Justin Klure** (ODOE); **Cathy Tortorici**, (NOAA Fisheries); **Craig Young** (Oregon Institute of Marine Biology).

Invited Speakers: **Keith Tymchuk** (Mayor of Reedsport); **Randy Henry** (Oregon State Marine Board).

Staff: **Greg McMurray** (Department of Land Conservation & Development); **Steve Shipsey** (Department of Justice, OPAC Counsel).

Observers (with affiliation if provided): **Peter Stauffer** (Surfrider Foundation); **John Griffith** (Coos County Commissioner); **Walter Chuck** (RFA/Oregon Anglers); **Mike Graybill** (South Slough National Estuarine Research Reserve); **Jan Hodder** (Oregon Institute of Marine Biology, University of Oregon); **Leesa Cobb**, (Port Orford Ocean Resources Team); **Kaety Hildenbrand** (Oregon Sea Grant); **Lisa Mulcahy** (Partnership for Interdisciplinary Studies of Coastal Oceans); **Ben Enticknap** (Oceana); **Steve Bodnar** (Coos Bay Trawlers Association); **Christopher Holmes** (Oregon State University); **Megan Mackey** (Pacific Marine Conservation Council); **Genevieve Bailey** (F/V *Lassie*); **Donna Train** (Port of Umpqua); **Fran Recht** (Pacific States Marine Fisheries Commission); **Calum Stevenson** (OPRD); **Susan Chambers** (*The World* newspaper); **Paul Merz** (public); **Robin Tol** (public); **Robin Sullivan** (public); **Betsy Littlefield** (Oregon State University Marine Mammal Institute); **Ike Lauustein** (public).

Total recorded attendance: 54.

Meeting Minutes:

Morning Session

The meeting was brought to order by Chair Scott McMullen at 9:05 a.m., and Mayor Keith Tymchuk welcomed the Council to the community of Reedsport. Scott also introduced two new members of OPAC: Greg Pettit, the DEQ Laboratory Division Administrator, who is replacing Paul Slyman; and Jim Hastreiter, of the Portland Office of the Federal Energy Regulatory Commission (FERC), who is a newly designated alternate for Ann Miles, FERC's representative to OPAC's Federal Liaison Committee.

Introductions:

The OPAC members and the audience introduced themselves and stated their affiliations.

Review and Approval of Summary of January 30, 2007, OPAC Meeting (Scott McMullen):

The Council approved the draft meeting summary by consensus.

Science Advice to OPAC: STAC Activities (Jay Rasmussen):

Jay reported that the STAC's workshop on mapping tools provided excellent information on current mapping efforts that involve state coastal areas and nearshore waters, tools for GIS mapping of physical, biological, and socioeconomic information, outreach through interactive Web resources, and a review of the mapping efforts associate with the California Marine Life Protection Act. A report from the STAC with recommendations for mapping through the Oregon Ocean Information System was reviewed. The letter outlining the steps necessary to progress towards a mapping tool for Oregon was also reviewed. Bob Bailey stated that the Oregon Coastal Atlas project will be hiring a Coastal Services Fellow who will be working on GIS mapping. Terry expressed concern about proprietary information on fishing activities and how these will be considered in the mapping effort, and Paul Engelmeyer asked about integration of this effort with the tri-state ocean conservation planning and Ocean Observing System projects (NANOOS, PacOOS). Paul made a motion to support the STAC recommendations, which was seconded by Jim Good and agreed upon by consensus.

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

Jessica circulated copies of a letter from Governor Kulongoski to the Council, dated April 18, 2007. In the letter the Governor addresses four topics: the marine sanctuary proposal, marine reserves planning, wave energy and aquaculture. The potential for offshore aquaculture generated some discussion; Paul Engelmeyer suggested revisiting aquaculture guidelines written by OPAC two years ago, and Onno Husing suggested a request to STAC to review a Pew Commission white paper on this subject that was released earlier this year. Paul agreed to serve as chair of an *ad hoc* committee to review documents, request a STAC review if necessary, and draft a letter to the governor on offshore aquaculture matter (committee members: Terry Thompson, Fred Sickler, David Allen, Onno Husing and Cathy Tortorici; Selina Heppell offered to assist as a STAC liaison).

Update on Marine Reserves Planning (Frank Warrens, Jim Good and Selina Heppell):

Frank reported on the Marine Reserves Working Group meeting conducted during the previous day, stating he felt that the concept of marine reserves had been better defined.

Jim described the thinking behind the marine reserves planning handout, *Discussion paper: coastwide framework goals for marine reserves* (electronic copies available from Jim Good; request via email at jwg4@yahoo.com).

The round table of initial reactions to the latest planning draft by all of the OPAC members highlighted many of the fundamental issues involved in developing the marine reserves process and the goals and objectives for the intended network, though some views were not universally held. They include:

1. The need for a problem statement – the public cannot understand the proposed action without a clear statement of the need and the problems to be resolved (or opportunities to be addressed) through the system, and this is the basis for its goals and objectives. It was noted that this step—identifying problems and opportunities driving the demand for marine reserves—is part of the OPAC-approved planning process.
2. The desire to establish this system from the bottom up, working in concert with the coastal communities, and using extensive locally-based public process and meetings.
3. The importance of socioeconomic as well as ecological priorities, goals and analysis.
4. A division among the Council over whether the two alternatives in the plan (ecological reference areas versus natural/cultural heritage areas), are really different (OPAC members were asked to comment on this per the request below).
5. The importance of long-term evaluation of the network in light of its goals and objectives, and the length of time, the structure of the “experiment”, and the funding needed for the evaluation.
6. The potential for an inclusive geographic scope, including estuaries, the continental shelf, or both, for example, as important components of marine reserves planning.
7. The importance, broad breadth, and definition of the concept of “network” in the plan and how that is embodied in the process and plan.
8. The need for clear, written language, and clarity on whether the stated goals are additive (or not) for individual reserves or for the network of reserves.
9. The importance of making the right policy choices, though they sometimes lack popular support. (Terry Thompson objected to the posting of this issue.)
10. The importance of adequate funding for this planning effort.
11. The importance of good information and the damage done by groups or individuals spreading bad information.
12. The recognition that designating marine reserves is in reality an exercise in the zoning of marine uses, and future uses such as wave energy or aquaculture may soon compete for ocean space; for OPAC’s ocean effects to be fully integrated and ecosystem-based, these issues should be taken up concurrently.
13. The recognition that marine reserves may be used as preservation areas (i.e., parks or wilderness areas); areas to monitor changes in ocean productivity in the absence of fishing; areas to enhance or protect biodiversity and fisheries resources; or any combination thereof.

The Council agreed to forward additional comments or suggestions to Jim Good (jwg4@yahoo.com), and that Jim and Selina would update the draft Discussion paper for review at the next Marine Reserves Working Group meeting. Following the meeting, a June 1, 2007, deadline for additional comments on the current draft.

Robin Hartmann proposed that OPAC write a letter to the Governor asking his support for the position in the Parks and Recreation Department that supports the Marine Reserves Working Group. The position is at risk in the legislative budget process. The

Council agreed by consensus that Robin draft and Scott sign such a letter on a very rapid turnaround.

Frank closed the discussion with an appeal for the support and commitment of all members of the Council to OPAC's planning process for marine reserves. There were no dissenting voices to Frank's proposal.

Public Comment on Marine Reserves:

Steve Bodnar (Coos Bay Trawlers Association): Steve has many concerns about marine reserves, including the problem statement and rationale for their implementation, lack of supporting science, ecosystem-based management, and corporate aquaculture versus family-owned fishing.

Genevieve Bailey (F/V *Lassie*): Genevieve expressed concerns about ocean use conflicts including both marine reserves and wave energy generation.

Ben Enticknap (Oceana): Ben stated his concern for the health of Oregon's ocean his support for the ongoing work of establishing the goals for the system of marine reserves.

John Griffith (Coos County Commissioner): John stated his belief that Oregon's Territorial Sea is already a marine protected area, opined that estuaries do not fit into ocean planning efforts, and judged OPAC's efforts invalid for lack of a representative for the counties in the southern half of the state.

Paul Merz (salmon troller): Paul expressed his concern that the fishing community hasn't been more involved in the marine reserves planning process, and challenged the Council to engage the coastal communities in the process.

Walter Chuck (Recreational Fishing Alliance/Oregon Anglers): Walter agrees that the problem statement is important for the marine reserves process, wants to see 20 years' funding guaranteed, and thinks coastal residents have more direct interest in the ocean than those who live in the Willamette Valley.

Luncheon Address

Randy Henry (Oregon State Marine Board): *Abandoned Boats in Oregon Waters*. Randy gave a concise summary of the Marine Board's program for abandoned boats, both as it has existed to date, and as he envisions it in the future. The present program was created in the 2003 legislature, committing \$150,000 per biennium to be used to fund the removal of abandoned boats under 200 tons that are a safety or environmental threat. To date, the program has only received one complete application and a verbal proposal. so, the Marine Board has become creative in finding ways to search for, identify and arrange for the removal of abandoned boats in specific situations. Roadblocks still include the lack of authority in many situations and the narrow legislative interpretation of the applicability of the law.

Afternoon Session

Update on Wave Energy Planning (Robin Hartmann):

Robin reported out on the Wave Energy Working Group meeting that was conducted the previous afternoon. There have been a very large number of wave energy-related events and processes ongoing over the past three months, including:

- negotiations for the Oregon Solutions process for the Ocean Power Technologies (OPT) project at Gardiner, Oregon;
- possible acoustic guidance device tests for marine mammal behavior by OPT in relation to the Gardiner project;
- an application by Finavera Renewables and Oregon State University for a research deployment of three buoys during summer 2007;
- the progress of the recommended budget for the wave energy trust through the Legislative budget process;
- other legislative initiatives related to wave energy;
- possible Congressional or Federal Energy Regulatory Commission (FERC) initiatives related to the applicability rules pursuant to the Federal Power Act to wave energy; public comment on FERC's use of a more stringent set of guidelines for Preliminary Permits;
- public comment on the Minerals Management Service's Programmatic Draft Environmental Impact Statement (PDEIS) on Alternative Uses of the Outer Continental Shelf (public workshop in Portland on the evening of May 2);
- a workshop on Oregon wave energy development effects at Oregon State University, now scheduled for September;
- FERC awarded Douglas County a Preliminary Permit for a very small area in the ocean,
- Lincoln County has taken an extension on its FERC application encompassing the extent of the Territorial Sea adjacent to the county;
- the Fishermen Involved in Natural Energy (FINE) group has been meeting with staff assistance from Sea Grant, and was recently codified by Lincoln County; and
- the Department of State Lands has received preliminary comments from its advisory committee on draft rules for leasing of the seabed for wave energy and will begin the public process shortly.

Given all these ongoing activities and processes, OPAC's role still needs to be defined. The two answers that surfaced in the working group meeting and Council discussion are a state-wide planning process that balances the needs of new and existing users, and a related effort to understand the cumulative effects of wave energy development, both ecological and socioeconomic. OPAC will also likely revisit the Territorial Sea Plan in view of the success and ease of its applicability to the first few wave energy projects.

Public Comment on Wave Energy:

Steve Bodnar (Coos Bay Trawlers Association): Steve expressed concern about the tradeoffs between the fishing industry and areas that might be taken out of the fishery for use as wave energy parks.

Peter Stauffer (Surfrider Foundation): Pete stated the surf community's high level of interest in the wave energy issue, further stating that his organization has no position at this time, but recognizes that there will be tradeoffs with green power, zoning issues and potential environmental impacts like electromagnetic effects on sharks.

Paul Merz (salmon troller): Paul wants to know the specific locations of possible wave energy developments as soon as possible, since fishing is highly site-specific, and urged OPAC to gather all applicable information.

Robin Sullivan (public): Robin worked in the Gulf of Mexico in the 60s to 70s, and recommended that Oregon investigate Louisiana's experience with fishing in the vicinity of OCS oil and gas rigs (and how that might relate to wave energy devices).

The Authority of the State Land Board to Designate Marine Protected Areas (Steve Shipsey):

Steve handed out advice from the Attorney General's Office to the Department of State Lands regarding the State Land Board's authority to establish a marine protected area. The Land Board has constitutional, common law and statutory authority to establish one or more marine protected areas. In order to establish a completely protected marine reserve, the State Land Board, would need to coordinate and cooperate with other state and federal authorities.

Update on the West Coast Governors' Agreement on Ocean Health (Jessica Hamilton):

Jessica updated the Council on the most recent efforts on the West Coast Governors' Agreement on Ocean Health, launched last September. The agreement is aimed at areas in which the states of Oregon, Washington and California can collaborate on ocean governance, management and planning. West Coast Governors' Agreement staff released a "Discussion Paper Regarding the Seven Priority Areas" on March 15 that is the focus of public workshops over the next three months. The paper includes possible actions in each of the seven focal areas of the agreement, and is intended to be finalized before the end of the calendar year.

Because the originally scheduled Oregon workshop is to take place in Portland the week of July 22-26 at Coastal Zone '07, the Council made a consensus decision for OPAC to host a public workshop in the coastal town of Tillamook on July 16 as part of its regular meeting. The Governor's Office will extend an invitation to attend the July 17 workshop to liaisons for the other principals of the agreement and to the White House Council on Environmental Quality, which is representing the federal government.

Oregon's Review for Consistency Certification Under the Coastal Zone Management Act (Greg McMurray):

Greg briefly summarized the Department of Land Conservation and Development's program for certification of federal permits and licenses for consistency with the state's enforceable policies under the Coastal Zone Management Act. Those enforceable policies include the land use planning goals, local comprehensive plans, state statutes, and state agency rules that apply to activities in the Territorial Sea. The program has run smoothly for the past 30 years, and certifies some 50-60 smaller federal permits and a small number of major permits each year (such as the present LNG terminal applications near Coos Bay and Astoria).

Proposal for a Coastwide Wave Energy Stakeholder Outreach Process (Onno Husing):

Onno spoke briefly to a proposal that the Oregon Coastal Zone Management Association (OCZMA) has submitted to a federal economic development agency. The gist of the \$75K project is for OCZMA to act as an active interface with coastal stakeholders and local groups like FINE, and deliver that integrated input to the wave energy processes and planning activities.

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

The next OPAC meeting will be held in Tillamook (logistics to be established) on Tuesday, July 17, 2007.

New Issues Raised by OPAC Members:

Fred Sickler suggested that the Governor's letter to OPAC made it appropriate to reconvene the National Marine Sanctuary Working Group again. Staff will communicate that idea to Jim Good, the working group chair, who had to leave this meeting early.

Robin Hartmann suggested that Steve Gaines, of the University of California at Santa Barbara be invited to speak on advances in marine reserves system design at the next OPAC meeting. Greg will add Steve's name to a speaker list provided by Selina Heppell.

General Public Comment:

John Griffith (Coos County Commissioner): John stated that fishermen and surfers are concerned about wave energy development, and that wave energy structures may be more invasive and more visible than oil and gas development offshore.

Ben Enticknap (Oceana): Ben spoke to the ability of marine reserves to address past impacts, but more importantly, as a part of a future vision for the ocean under Goal 19, the importance of the public process, and also developing a roadmap for marine reserves process.

Paul Merz (salmon troller): Paul stated his continued concern over public input in the marine reserves planning process, and agreed to send additional comments for the file via email.

Meeting adjourned by Chair Scott McMullen at 4:45 p.m.