

Oregon Ocean Policy Advisory Council

DRAFT Meeting Summary

Meeting of March 17, 2006

Oregon Department of Forestry, Tillamook Offices, Tillamook, Oregon

Executive Summary

Issues Decided/Positions Taken:

Operating Procedures and Consensus Guidelines: The council adopted the revised OPAC operating procedures and consensus process.

STAC: The council adopted the five-person STAC membership recommendation and directed Jay Rasmussen to return next meeting with a list of possible STAC representatives for scientific expertise in marine ecology/fish behavior and multi-year, multiple gear technical/practical expertise in fishing the Oregon Territorial Sea.

Seafloor Mapping: The council agreed to send a letter in support of the Oregon State University Consensus Statement on Seafloor Mapping. Jim Good will draft a letter for Scott's signature.

Action Items:

OPAC Members:

Jay Rasmussen: For next OPAC meeting, list possible STAC representatives for scientific expertise in marine ecology/fish behavior and multi-year, multiple gear technical/practical expertise in fishing the Oregon Territorial Sea.

Jim Good: Draft letter in support of seafloor mapping initiative.

OPAC Staff:

Repeat the recent email meeting scheduling query to members to find an acceptable date for the next meeting.

Next Meeting:

Not yet specified.

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** (Conservation or Environmental Organization); **Jim Good** (Public at Large); **Robin Hartmann** (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): **David Fox** (Department of Fish & Wildlife); **Jessica Hamilton** (Governor's Office); **Ann Hanus** (Department of State Lands); **Onno Husing** (Oregon Coastal Zone Management Association); **Jay Rasmussen** (Oregon Sea Grant College); **Lane Shetterly/George Naughton** (Department of Land Conservation & Development); **Paul Slyman** (Department of Environmental Quality); **Robert Witter** (Department of Geology and Mineral Industries); **Tim Wood** (Parks & Recreation Department).

Members Absent: **Dalton Hobbs** (Department of Agriculture); **Robert Kentta** (Oregon Coastal Indian Tribes); **Brad Pettinger** (South Coast Commercial Fisheries);

Committee Members: **Steve Copps, Cathy Tortorici** (NOAA Fisheries).

Invited Speakers: **Bill Douros, Jeff Gray** (NOAA National Marine Sanctuary Program); **Justin Klure** (Oregon Department of Energy); **Kay Moxness** (Central Lincoln Public Utility District).

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

Observers (with affiliation if provided): **Peter Stauffer** (Surfrider Foundation); **Peg Reagan** (Chair, Conservation Leaders Network); **Peter McDougall** (COMPASS, Oregon State University); **John Griffith** (Coos County); **Megan Mackey**, (Pacific Marine Conservation Council); **John Holloway** (Oregon Recreational Anglers Fishing Alliance); **Bridgette Lohrman** (NOAA Fisheries); **Ron Mason, Walter Chuck**, (Newport); **Hal Weeks, Cristen Don**, (Oregon Department of Fish & Wildlife); **Kristin Feindel; Randy Henry** (Oregon Marine Board); **Robin Kaup**, (Silverton); **Edmund Keene** (Banks); **Paul Kajula** (Warrenton); **Russ Glascock** (Eddyville); **Christopher Holmes, Chris Romsos, Andy Lanier** (College of Oceanic and Atmospheric Sciences, Oregon State University); **Nancy Fitzpatrick** (Oregon Salmon Commission); **Bernard Bjork** (Lower Columbia Alliance for Sustainable Fisheries); **Sarah Masterson** (Office of Congresswoman Darlene Hooley); **Chuck Willer** (Oregon Coast Association); **Dave Jordan, Scott Browning; Robert Browning** (Garibaldi); **Ken Chambers, Mari Chambers** (Dallas); **Norm Myers** (Tillamook Traffic Safety Commission); **Linda Brown, Jon Brown** (Kerri Lin Charters); **Dick Vander Schaff** (The Nature Conservancy); **Linda Buell** (Garibaldi Charters); **Dale Buck** (Farm Bureau); **Dan Waldeck** (Oregon Whiting Commission); **Mark Labbatt** (Tillamook County); **Jeff Folkona** (Garibaldi Marina); **Jon Koster, Dusty Barrett** (Tillamook); **A.D. Gus Meyer** (Soil and Water Conservation District, Tillamook Estuary Program); **Dale Powers** (Aloha); **CD Johnson** (Tigard); **Cheryl Coon** (Audubon Society of Portland); **Dawn Wright** (Department of Geosciences, Oregon Sate University); **David Vandewedering** (drag fisherman); **Blair G. Minor, Gary Sjostrom** (FMH); **Matt Brookhart** (NOAA National Marine Sanctuary Program); **Brian Roussell** (WCI Cable).

Total recorded attendance: 79.

Meeting Minutes:

Morning Session

The meeting was brought to order by Chair Scott McMullen at 9:03 a.m.

Introductions:

Members introduced themselves and stated their affiliations; then the other attendees of the meeting were given an opportunity and introduced themselves.

Review and Approval of Summary of December 9, 2005, OPAC Meeting (Scott McMullen):

The council approved the last meeting's summary, with the addition of changes showing more clearly the STAC selection process and the clarification that Economic Impact Analysis had been subsumed under the Marine Research Reserves category for the prioritization of issues. The council accepted the revised summary by consensus.

OPAC Operating Procedures/Consensus Process Final Draft (Steve Shipsey, Greg McMurray):

Greg told the council that the document was unchanged since Steve Shipsey's oral presentation of his edit on January 20, except for the insertion of a single paragraph to address the archiving and public availability of OPAC documents through DLCDC. The council agreed by consensus to adopt the [revised operating procedures](#) with the added change.

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

Jay reviewed the process that the council had agreed upon in order to populate the legislatively mandated Scientific and Technical Advisory Committee that is intended to broker the appointment to issue-specific scientific and technical subcommittees. He named five persons to the first five committee slots: **Jack Barth** (Oregon State University College of Oceanic and Atmospheric Sciences), Physical Oceanography; Susan Hanna (Oregon State University, Department of Agricultural and Resource Economics); **Dick Hildreth** (University of Oregon, Ocean and Coastal Law Center), Ocean and Coastal Law; **Dave Sampson** (Oregon State University, College of Fisheries and Wildlife, ODFW), Fisheries Science; and **Craig Young** (University of Oregon, Oregon Institute of Marine Biology), Marine Biology and Ecology.

The council discussed the five scientific/technical disciplines represented, and after some discussion, agreed that persons in two more areas of expertise should be immediately sought and recommended. The council adopted the five-person recommendation by consensus, and directed Jay to return to the next meeting with a list of persons qualified to advise the council in two areas with: 1) expertise in marine ecology/fish behavior; and 2) multi-year, multiple gear technical/practical expertise in fishing the Oregon Territorial Sea.

The National Marine Sanctuary Program (Bill Douros, Jeff Gray):

Bill gave a [PowerPoint presentation](#) on how the National Marine Sanctuary Program works. His experience has been focused on the West Coast, and he is the most recent Sanctuary Superintendent for Monterey Bay NMS. Bill outlined the characteristics of the national sanctuaries, with attention to the five existing West Coast Sanctuaries, as they function within the provisions of the National Marine Sanctuaries Act. The sanctuaries are managed using personnel from both federal and state/local employ, and a large number of volunteers. Base budgets are mainly for personnel costs; costs very roughly correlate to size of the area managed.

Jeff then gave a [PowerPoint presentation](#) on Thunder Bay Nation Marine Sanctuary, whose chief resource is some 200 shipwrecks. This sanctuary is the closest existing model to that sought by Oregon to maximize state influence in the management plan: in the Thunder Bay case, the Sanctuary Manager answers equally to state and federal officials, but is a federal employee. Jeff made the point, and later clarified it, that though 70 percent of the population polled opposed this sanctuary early on, after two years of public education, there was a majority of popular support, and the sanctuary was designated.

After the presentations, the council began a question and answer period with Bill and Jeff about the germane specifics of the National Marine Sanctuary program. It was interrupted by the morning's public comment period, but continued at some considerable length in the afternoon. (See Afternoon Session for a summary of the responses.)

Public Comment:

Bernie Bjork (Lower Columbia Alliance for Sustainable Fisheries): Bernie is concerned that designating a national marine sanctuary will further curtail fishing opportunities for Oregonians.

Gary Sjostrom (FMH): Gary used a map to show the council how much of the ocean has already been closed to commercial fishing.

David Vandewedering (drag fisherman): David has been fishing for a long time, and is afraid that a national marine sanctuary will be the last of many actions that limit fisheries.

Paul Kujala (trawl fisherman): Paul explained that the trawl fishery is down to about 20% of the fishing area that was available to it 10 years ago.

Walter Chuck (citizen – Newport): Walter is a sport fisherman and is not willing to take the leap of faith requested by the Governor in designating a national marine sanctuary, and he complained of a secretive government process.

Deborah Boone (State Representative, District 31): Representative Boone reminded the council that it is advisory in nature, and expressed her concerns about a blanket application of a national marine sanctuary to the entire Oregon coast, especially as it might affect fisheries.

Russ Glascock (recreational fisherman): Russ is concerned about jobs and Lincoln County, the difficulty of permitting activities, and the possibility of another layer of government with a federally-managed national marine sanctuary.

John Holloway (Oregon Anglers): John voiced his conviction that OPAC's national marine sanctuary process be unbiased, and expressed an array of concerns about the relationship between fishing regulation and a possible national marine sanctuary.

Peter Stauffer (Surfrider Foundation): Pete said that Surfrider members are generally supportive of the national marine sanctuary proposal in concept, but there are concerns, especially state and local control, and about habitat protection through the state's designation of marine research reserves.

Jon Brown (Kerri Lin Charters): Jon, having been in the carter industry for 34 years, described his frustration at the lack of government responsiveness and expressed his distrust of a possible federal regulatory presence in Oregon's ocean through a national marine sanctuary.

Dale Powers (fisherman): Dale is not convinced that using a national marine sanctuary to block outer continental shelf oil & gas development s the best tool, and voiced his concerns about added fisheries regulation.

John Griffith (Coos County): Commissioner Griffith compared the prospect "mission creep" of a national marine sanctuary to his suspicion that South Slough National Estuarine Research Reserve had gone far beyond its original intent and geographic scope, and cautioned the council that federal funds may not available to run a marine sanctuary.

Robert Browning (commercial fisherman): Robert thinks that the state needs to protect its fishing industry, since the fishers are the fist to think of conservation; and he hopes that the Governor will listen to people who live on the coast.

Edmund Keene (The OCEAN): Edmund said that while an Oregon national marine sanctuary sounds really good, the science isn't definitive, and he sees great risk that a national marine sanctuary and its additional layer of government will have unintended consequences on the state.

Peg Reagan (Chair, Conservation Leaders Network): Peg reminded the council that the Governor had directed it to implement marine research reserves, and questioned whether the national marine sanctuary work plan would address marine reserves as well.

Luncheon Address

Dawn Wright (Department of Geosciences, Oregon Sate University):

Dawn presented a [PowerPoint show](#) that detailed the status of detailed seafloor mapping in the Territorial Sea (only 5%) and explained how advanced technology could be used in a cost effective way to complete the job. She also circulated a [cover letter and consensus statement](#) to the council.

OPAC endorsed mapping project by consensus (see issues decided).

Afternoon Session

Marine Sanctuary Planning Process – Work Plan (Greg McMurray):

Greg made a very short [PowerPoint presentation](#) that developed a National Marine Sanctuary process and products over a timeline culminating with a December 15, 2006, final report to the Governor. The timeline included elements of the process, and elements of the product, which is the report to the Governor.

Marine Sanctuary Planning Process – Scoping the Process (Greg McMurray):

Greg presented a synthesis of National Marine Sanctuary issues resulting from a query to the council membership. His [PowerPoint presentation](#) of the results identified fundamental issues, management issues, and specific resource or activity issues, that might be scoped by developing an issues matrix to identify key management issues.

Extended Question and Answer Period with Bill Douros and Jeff Gray:

The main gist of the wide array of questions asked by OPAC councilors and the public related to the management of natural resources and human activities, and often how the implementation of a sanctuary management might have made that management more difficult or more complicated. Many other questions related to the potential for more complicated management schemes or another “layer” of government. It seemed clear that Bill and Jeff were trying to answer all of the questions openly and honestly.

Based on Bill’s and Jeff’s answers, the sanctuary regulation can apparently work in two modes. First, they can accede to existing permitting regulations under the authorities of other agencies, for example, water quality or dredge spoils disposal. But second, the sanctuaries appear enabled to “trump” existing authorities with their own system based on the authority of the Sanctuary manager or ultimately, the Secretary of Commerce, in the case of fishing. Bill was careful to point out that he believes 90 percent of sanctuaries’ activities are non-regulatory, utilizing education and outreach.

Bill and Jeff’s answers suggested the following sideboards to living and working under the National Marine Sanctuaries Act:

- the Act contemplates sanctuaries in specific (generally small) areas in the ocean;
- the prime objective of the Act is marine conservation;
- the focus of the NMS program has shifted from an emphasis on “wilderness areas” in the ocean, to an emphasis on multiple use areas;
- the existing sanctuaries in the national system reflect a wide array of federal and state balance in the management plan;
- the maximum amount of state influence is found at Thunder Bay, where the sanctuary manager answers to a state and a federal official, but is a federal employee;
- the initial agreement between the state and federal governments (i.e., the management plan) is key to all subsequent relations;
- the possibility of a sanctuary manager answering to a Governor instead of the Secretary of Commerce, or using an existing state body as the advisory committee is not precluded under the Act, but would definitely be precedent-setting;
- existing activities of many types can be “grandfathered” into a sanctuary, but additional activities of those types (like new dredge spoil disposal sites), or completely new activities, would need to be permitted;
- in cases where the goals of fishery and sanctuary management are in conflict, the sanctuaries generally make recommendations to the regional council on strategies to achieve the sanctuary’s conservation goals (but are provided an opportunity in the Act to go around the councils to the Secretary);
- changes to sanctuary boundaries in the Territorial Sea require the Governor’s approval, changes outside (in federal waters) require only consultation;

- sanctuary managers usually try to find non-regulatory fixes for sanctuary issues and problems;
- sanctuary managers usually try to utilize regulatory fixes, when necessary, through existing authorities before utilizing “trumps” under the NMSA;
- when utilizing their own authority, the sanctuaries often require special use permits for the activities of concern;
- most sanctuary enforcement is performed by state partners, not NOAA employees;
- although it is not clear how much sanctuary funding goes to outside scientists, the sanctuaries do act as funding magnets for marine science, and also support scientific research activities with their capital investments, like buoys and research platforms (i.e., ships); and
- a significant amount of the angst about marine sanctuaries has come from faulty information, misunderstandings and miscommunications.

Marine Sanctuary Planning Process – Legal Scoping (Steve Shipsey):

Steve described the National Marine Sanctuaries Act Section 304 designation process standards. He then presented and discussed a [matrix](#) of National Marine Sanctuary legal issues and constraints that he drew from the 13 existing marine sanctuaries’ designation documents. He also exhibited a draft [flow chart](#) prepared by NOAA that shows the role of the Regional Fishery Management Councils, Sanctuary Advisory Councils, Treaty Tribes, NOAA Fisheries Service and the National Marine Sanctuary Program in the promulgation of fishing regulations in marine sanctuaries.

Steve suggested some substantive points relative to a possible Oregon sanctuary in his presentation. First was that establishing the landward boundary of an Oregon Coast National Marine Sanctuary at the lower low tide line would keep it out of conflict with Oregon’s beach law. Second (in response to David Allen’s question) was that fisheries management would only merge as a management issue in a sanctuary when it was directly related to the protection of a resource specified in the management plan. Third was that the Energy Policy Act of 2005 expressly excluded national marine sanctuaries from areas where the Secretary of Interior may authorize activities that support oil & gas exploration, development, or production.

Marine Sanctuary Planning Process – Public Process (Jim Good):

Jim reported on the results of the National Marine Sanctuary Outreach Committee meeting that was conducted on March 13, 2006. His [summary](#) of the meeting described the way that the committee intended to get information *to* the public and to get information *from* the public. He asked the council whether it was willing to delegate decisions about the outreach process to the chair or Executive Committee. The council responded that, since the Governor’s Office had allowed some “wobble room”, that perhaps the public process could be widened, and therefore it was premature to approach the public.

Public Comment:

Brian Rousell (WCI Cable): In order for trans-Pacific cable networks to continue to seek landfall in Oregon, they need to have predictability and manageability.

Linda Buell (Garibaldi Charters): Linda said that Garibaldi's charter fleet is struggling to survive, and her concerns about the national marine sanctuary included uncertainty of funding and the apparent total power of the sanctuary administrator: she doesn't want another layer of bureaucracy.

John Griffith (Coos County): Commissioner Griffith expressed his concern that tow-in surfing might not be possible with a national marine sanctuary.

Ben Enticknap (Oceana): Ben said that he hopes that the council will be able to address its existing mandates, but most importantly that it will take immediate actions to implement marine conservation based on information already available to it.

Walter Chuck (RFA/Oregon Anglers): Walter thanked the council for their service and voiced his conviction that the council should say no to a national marine sanctuary.

John Holloway (Oregon Anglers): John returned to remind the council that the national marine sanctuaries in California had acted to curtail fishing under the recent EFH EIS process, and had threatened to take decisions to the level of the Secretary of Commerce.

Meeting adjourned by Chair Scott McMullen at 5:49 p.m.