

# Oregon Territorial Sea Plan

Adopted 1994



## PART ONE:

# Ocean Management Framework

### A. HISTORY OF OCEAN PLANNING IN OREGON

Ocean planning in Oregon has evolved from strong public interests in coastal use and protection that began long before statehood. This historic concern for the coast has involved several Governors, the Oregon Legislature, and, as always, a vocal and active public.

#### 1. Before 1973

Oregon's ocean shore has always been a vital part of the Oregon way of life. Native people lived on the Oregon coast for thousands of years, sustained by a rich, steady supply of food in marine waters and along the shore. The long sandy beaches were integral pathways for journeys between rivers. Early trappers and settlers in the Oregon country customarily used the ocean shore for travel and recreation long before automobiles came to the Oregon coast in the early 1900s. Railroads took "weekenders" to Seaside, Gearhart, and Newport. In some places the beach served as highway until completion of the Coast Highway in the mid-1930s. Governor Oswald West proposed, and the 1913 Oregon Legislature agreed, that the ocean shore, between low and ordinary high tide be officially designated a public highway to ensure that the ocean-front tidelands were retained in public ownership. Over the years Oregonians assumed that all the beach belonged to the public. But in the mid-1960s some coastal property owners asserted their ownership of the dry sand beaches. Out of a growing public concern that public use of beaches would be lost, Governor Tom McCall and the 1967 Oregon Legislature forged and passed Oregon's famous "Beach Bill" that created a public recreation easement across private dry sand beach areas. The law has been upheld in landmark court cases (as recently as March 1994, the United States Supreme Court refused to hear an appeal related to an Oregon Supreme Court Decision upholding the law).

The citizen alliances that formed to support the Beach Bill also began to express concerns about Oregon's coast in light of increasing development of coastal areas and destruction of estuaries, shorelands, and the like. The 1971 Legislature established the Oregon Coastal Conservation and Development Commission, made up principally of coastal officials and citizens, and charged it with preparing a plan for the Oregon coast. The OCC&DC addressed many issues, including use of the ocean shore and ocean waters of the continental shelf. And although the OCC&DC was eclipsed by the statewide planning program begun in 1973, it laid the foundation for policies on

the management and protection of all coastal resources, including the ocean. Thus, the public concerns for the use of the beaches led to the first efforts to create ocean management policies.

## **2. 1973-1987**

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. Parts of this statewide program are keystone elements of Oregon's ocean planning program as well, such as citizen involvement, local government planning, and state agency coordination. Some 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. These four coastal goals were derived from the earlier work of the OCC&DC.

The Ocean Resources Goal (Goal 19) was developed amid national concerns about federal offshore oil and gas drilling as well as regional concerns about foreign fishing fleets and over-fishing on or near the US continental shelf. Accordingly, 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.

The statewide goals created a framework for carrying out the legislative mandate for a consistent, comprehensive statewide land-use planning program. Cities and counties were required by law to prepare and adopt comprehensive land-use plans that complied with the statewide goals. Similarly, state agencies were required to develop "agency coordination" programs to meet the Goals and coordinate their functions with local planning. 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. By early 1987, an administrative rule for Goal 19 was prepared but not adopted because the 1987 legislature established the Ocean Resources Management Task Force to prepare a plan for ocean-resources management. Thus LCDC deferred preparing Goal 19 rules pending development of the Ocean Plan by the Task Force.

## **3. 1987-1991**

Two major activities dominated the second phase of ocean planning: 1) preparation of a broad framework plan addressing ocean resources within the 200-mile U.S. EEZ off Oregon, and 2)

responding to federal oil and gas lease sale proposals for the Outer Continental Shelf off Washington and Oregon. The Ocean Task Force developed the Oregon Ocean Resources Management Plan (Ocean Plan) in 1990, which the LCDC subsequently adopted as part of the state's coastal management program as required by law (see Part One Section D.2. for an explanation of the Ocean Plan; see Appendix G for policies of the Ocean Plan). The plan built upon the subject matter addressed by the Ocean Resources goal but-although richer in detail, broader in scope, and more explicit in policy direction-still 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.

## Historical Roots of Oregon's Territorial Sea Plan

### **Before 1973**

#### **"Beach Bill" & O.C.C. & D.C.**

- *public access to beaches*
- *coastal protection*
- *coastal conservation*

### **1973 - 1987**

#### **ORS 197 Oregon Land Use Program**

- *Statewide Planning Goals 1 - 19*
- *Local Planning Programs*
- *State Agency Programs*

### **1987 - 1991**

#### **ORS 196 Creates Ocean Task Force to Develop Ocean Plan**

- *Ocean Stewardship Area*
- *Marine Habitat Protection*
- *Ocean Resources Policies*
- *Territorial Sea Plan Needed*
- *Ocean Policy Advisory Council*

### **1991 - 1994**

#### **ORS 196 Amended:**

- *Creates Ocean Policy Advisory Council*
- *Initial Territorial Sea Plan Prepared*

### **Future: 1994 ?**

- *Territorial Sea Plan Additions and Amendments*

During this 1987-1991 period, areas of the federal Outer Continental Shelf off Washington, Oregon, and California were scheduled by the federal government for potential oil and gas leases. In addition, intense interest developed in exploring and potential mining for strategic minerals off the southern Oregon coast in both state and federal waters. Other concurrent concerns arose over conflicts between Steller sea-lion habitat and the sea-urchin dive industry. Together, these issues provided much of the focus and impetus for the Ocean Plan.

#### **4. 1991-1994**

The 1991 Oregon Legislature established the Ocean Policy Advisory Council (OPAC) to, among other duties, prepare a plan, by July 1, 1994, for managing the resources and activities in the state's territorial sea. The management-oriented Territorial Sea Plan is very different from the policy-oriented 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.

After the OPAC completes the Territorial Sea Plan in mid-1994, it will be submitted to the LCDC, which will review it against the statewide planning goals and state law and then adopt it as part of the state's Coastal Management Program. The LCDC will, in turn, submit the plan to the Office of Ocean and Coastal Resources Management, within the National Oceanic and Atmospheric Administration, for review and approval as an amendment to Oregon's federally approved Coastal Management Program.

#### **5. Beyond 1994**

The Council was unable to address many ocean-resource management issues during preparation of the initial plan. Therefore, the Council will continue to refine and add to the Territorial Sea Plan through plan amendments and updates to address such issues as kelp-reef special-area management, mariculture, seabed leasing, marine water quality and sewerage outfalls, dredged material disposal, ocean structures, oil and gas exploration, marine minerals, and ocean hazards. The Council is charged by law with providing the Governor with policy advice on ocean matters including new ones that will undoubtedly emerge over time.