

Oregon Ocean Policy Advisory Council

DRAFT Meeting Summary

Meeting of January 30, 2007

Port Orford City Hall, Port Orford, Oregon

Executive Summary

Issues Decided/Positions Taken:

- The council made a consensus decision to ask the Marine Cabinet agencies, by the next OPAC meeting, for summaries of their authorities and provisions for funding to address existing derelict material issues.
- The council made a consensus decision to ask the DLCDC, with assistance from Steve Shipsey as appropriate, to report on a preliminary analysis of the adequacy of the agency's consistency review under the Coastal Zone Management Act to address the state's policy needs in the wave energy regulatory arena.
- The council made a consensus decision to adopt the Marine Reserves Working Group (MRWG) preliminary work plan; and to add additional members to formulate a MRWG consistent with the Reserves Planning Committee envisioned in the 2002 recommendation.

Action Items:

Executive Committee:

- Meet with Legislative Joint Committee on Emergency Preparedness and Ocean Policy to discuss funding for OPAC initiatives.

Jessica Hamilton:

- Initiate effort through Marine Cabinet to summarize existing authorities related to derelict material issues in estuaries. Work with Marine Cabinet to update the draft marine reserves budget developed by the MRWG.

Terry Thompson:

- Follow through on the derelict material issue with necessary legislative concepts.

OPAC Staff:

- Circulate and web-publish meeting dates for remainder of calendar year 2007.
- Prepare presentation on the adequacy of the DLCDC's Coastal Management Program's enforceable policies to serve the state's policy interests through the Coastal Zone Management Act's *consistency* clause.
- Post National Marine Sanctuary Program Office response letter on OPAC web site on same page as OPAC's NMS status report and transmittal letter.
- Discuss derelict material issues at next interagency oyster leasing/estuarine impacts working group meeting with the objective of clarifying authorities.
- Add South County Commissioners John Griffith and Lucie LaBonté to the OPAC member circulation list, per direction of Chair McMullen.

Steve Shipsey:

- Assist as needed in analysis of legal issues pertaining to DLCDC's CZMA consistency authority.

Next Meeting:

Thursday, April 19, 2007; Reedsport.

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); **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); **Onno Husing** (Oregon Coastal Zone Management Association); **Jeff Kroft** (Department of State Lands); **Jay Rasmussen** (Oregon Sea Grant College); **Paul Slyman** (Department of Environmental Quality); **Tim Wood** (Parks & Recreation Department).

Members Absent: **Dalton Hobbs** (Department of Agriculture); **Jim Pex** (South Coast Charter, Sport or Recreational Fisheries); Oregon Coastal Indian Tribes (**seat vacant**); South Coastal County Commissioner (**seat vacant**).

Committee/Working Group Members: **Cathy Tortorici**, (NOAA Fisheries); **Laurel Hillmann** (Oregon Parks & Recreation Department); **Hal Weeks** (Oregon Department of Fish & Wildlife); **Craig Young** (Oregon Institute of Marine Biology).

Invited Speakers: **Jim Auburn** (Mayor of Port Orford); **Julie M. Barr** (Oregon Sea Grant).

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** (Conservation Leaders Network); **John Griffith** (Coos County Commissioner); **Carolyn Waldron** (Oregon Ocean); **Walter Chuck, John Holloway** (Recreational Fisherman's Association/Oregon Anglers); **Bernie Bjork** (Lower Columbia Alliance for Sustainable Fisheries); **Larry Lzugsh** (citizen); **Rachel Moore** (observer); **Lucie LaBonté** (Curry County Commissioner); **Darci Connor, Craig Risien** (College of Oceanic and Atmospheric Sciences, Oregon State University); **Elizabeth Rauer** (Marine Conservation Biology Institute); **Phillip Johnson** (Oregon Shores Conservation

Coalition); **Jan Hodder** (Oregon Institute of Marine Biology, University of Oregon); **Leesa Cobb, Valerie Meakum** (Port Orford Ocean Resources Team); **John Schaefer** (Oregon State University); **Jennifer Bloesser** (Pacific Marine Conservation Council); **Kaety Hildenbrand** (Oregon Sea Grant); **Shirley Nelson** (Gold Beach); **Diane Bilderbeck, Dave Bilderbeck**, (Bandon); **Evan Khamer, Molly Cooley, John Roorback, Maryann Barnhart** (Port Orford); **John Meyer** (COMPASS); **Lisa Mulcahy** (Partnership for Interdisciplinary Studies of Coastal Oceans); **Craig Good** (Oregon Department of Fish & Wildlife); **Monica Schrieber** (North Bend); **Linda Tarr, Sylvia Thomas** (Kalmiopsis Audubon).

Total recorded attendance: 64.

Meeting Minutes:

Morning Session

The meeting was brought to order by Chair Scott McMullen at 9:10 a.m., and Mayor Jim Auburn welcomed the council to the community of Port Orford. Scott also expressed his great appreciation for the hospitality given by the Port Orford Ocean Resources Team, especially the OPAC seafood reception and informational presentations the prior evening.

Introductions:

The OPAC members introduced themselves and stated their affiliations.

Review and Approval of Summary of November 30, 2006, OPAC Meeting (Scott McMullen):

David Allen requested that the meeting summary reflect the fact that both the National Marine Sanctuary Status Report and the transmittal letter to the Governor (not just the report) would be posted on the OPAC web site. The council approved the amended meeting summary by consensus.

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

Jay reported that the STAC's workshop on seafloor mapping would take place in late February or early March. The workshop will be focused on purely scientific concerns, but OPAC councilors will be welcome to observe. Jack Barth is setting up the workshop. Selena Heppell will take the lead in responding to the questions posed to the STAC by the Marine Reserves Working Group.

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

Jessica reported that work continues on focusing the West Coast Governors' Agreement on Ocean Health towards the seven specific issue areas. One strong initiative of the effort is to consolidate and improve the West Coast states' relationship with the federal government on ocean affairs. Councilors discussed the balance of state versus federal authorities and influences in the context of the Agreement, and additionally, the continuing need for federal funds.

Jessica also reported that the Governor had not yet been briefed on the National Marine Sanctuary Status Report. She circulated a letter from the National Marine Sanctuary

Program Office that was submitted to the Governor's Office in response to the council's status report. The letter will be posted on the OPAC web site with the status report and its transmittal letter.

Policies for New Ocean Industries: Is Posting a Bond Appropriate for In-Water Structures? (Terry Thompson):

Terry described a situation in which there are numerous derelict fishing boat hulls and oyster culture bags and racks littering Yaquina Bay. There appear to be existing authorities to enforce removal of this derelict equipment, but there is no available funding with which to accomplish it. Hence, the trash persists. In a prospective sense, Terry proposed that regulators of future ocean activities involving the deployment of hardware need to have very clear authority and should require the funds up front to clean up the possible mess.

The ensuing discussion by the council addressed both the existing and possible future problems and there was strong concurrence that this is a situation that OPAC could and should address. There was also agreement that three separate issues were involved in the discussion: 1) present and future estuarine aquaculture provisions and funding; 2) present and future derelict vessels provisions and funding; and 3) future provisions and funding for prospective activities including wave energy and ocean aquaculture. Options included a relatively high level of effort by appointing a working group, or a relatively low level of effort by quickly providing some needed analysis for the legislative process. The council agreed by consensus to take the latter approach, and to develop a summary paper on these issues with some regulatory gap analysis on authority and funding for the existing problems and infrastructure, appropriate for use in the legislative process, by the next OPAC meeting. Jessica agreed to initiate such an effort immediately through the Marine Cabinet with the inclusion of the Marine Board. This approach will also accommodate later proposals for funding under identified authorities.

Update on Wave Energy Planning (Robin Hartmann):

Robin reported on the Wave Energy Working Group meeting that was conducted the previous morning. (Details of the meeting will be posted on the OPAC Working Group web page.) The objective of the meeting was to better pin down OPAC's appropriate role in the rapidly evolving wave energy arena. The following activities have taken place since OPAC and the working group met in November:

- There are now two Oregon counties and four industry projects with Preliminary Permit applications on record at the Federal Energy Regulatory Commission (FERC), and other county applications are rumored to be in preparation. (*Note in preparation:* FERC responded to the county applications on February 1, asking for information on specific technologies and requesting substantially reduced footprints of the areas under the applications, to be submitted within seven days.)
- The Department of State Lands (DSL) has appointed an advisory group for its rulemaking effort to establish a seafloor leasing regime for wave energy.
- The Oregon Innovations Council has incorporated the Oregon Wave Energy Trust (OWET), which will be charged with promoting wave energy development in Oregon. It will have a budget of about \$5M per year for this purpose.

- The Hatfield Marine Science Center will host a one-day scientific workshop to scope the potential ecological effects of wave energy development. The workshop is tentatively scheduled for early June and will also include provision for a subsequent meeting to advise policy-makers on the results.
- FERC convened a workshop in December to address the issues involved in using its hydropower rules to regulate ocean renewable energy development, but has not yet announced the changes it intends. These changes will be fundamental to defining the regulatory landscape in which Oregon's interests must be promoted.

The working group identified an extensive list of policy issues for which OPAC could possibly provide policy direction for the state. The final entry on the list, the adequacy of the Territorial Sea Plan to address wave energy issue through DLCD's Coastal Zone Management Act (CZMA) *consistency* clause, was discussed on some detail. The applicable "enforceable policies" of the state include those of DLCD, DSL, Parks, ODFW and local governments, and all these policies are included in the state's authority under the CZMA consistency clause. DLCD has been working on policy analysis of the consistency authority with respect to wave energy development, but not a legal analysis. The council reached consensus to request a report from the DLCD on the issue of consistency authority, with assistance from Steve Shipsey where appropriate, to address legal aspects.

Public Comment:

Diane Bilderback (Bandon): Diane expressed her appreciation that OPAC was discussing wave energy development issues, stated her support for marine reserves, and requested that the council to address existing problems in the marine environment.

Bernie Bjork (Lower Columbia Alliance for Sustainable Fisheries): Bernie read a prepared statement from the Astoria fishing community that they do not support the OPAC initiative on marine reserves unless previously closed fishing grounds would be reopened.

Lucie LaBonté (Curry County Commissioner): Lucie expressed her support for local planning processes (as opposed to statewide processes) and for OPAC's effort to address derelict issues, and reminded the council that the counties will need some kind of revenue stream from proposed wave energy developments.

John Holloway (Recreational Fisherman's Association/Oregon Anglers): John thinks it appropriate that the Pacific Marine Fishery Council be given an opportunity to comment on OPAC's National Marine Sanctuary Status Report, and will arrange it himself.

Darci Connor (College of Oceanic and Atmospheric Sciences, Oregon State University): Darci described her research effort on Oregon's Marine Protected Areas process, and asked the councilors' participation in individual interviews that will establish the key socioeconomic issues.

John Griffith (Coos County Commissioner): John stated that he has not heard personally from the Governor about his appointment to OPAC, challenged the council to develop a working definition of "ecosystem-based management", and opposed federal involvement in the management of Oregon's Territorial Sea.

Leesa Cobb (Port Orford Ocean Resources Team): Leesa circulated a statement in support of OPAC's thoughtful consideration of marine reserves.

Luncheon Address

Julie Barr (Oregon Sea Grant Program): Sea Grant's Regional Marine Research and Information Planning.

Julie presented a PowerPoint and briefed the council on Sea Grant Regional Marine Research and Information Planning effort, which is linked to the West Coast Governors' Agreement on Ocean Health. The scope of the effort is the California Current Large Marine Ecosystem, so includes Washington, Oregon and California, and the general goal is to begin to manage at the ecosystem scale. Sea Grant has identified seven theme areas nationwide that include:

1. social and economic vitality of coastal communities;
2. coastal natural hazards;
3. human health;
4. ecosystem dynamics, quality and connectivity;
5. ocean's role in climate variability;
6. marine transportation and security; and
7. ocean education and environmental literacy.

These themes will be addressed through focuses on ecosystem-based management, coastal communities and observing and forecasting. The project will be coordinated with the four West Coast Sea Grant offices as well as the Governor's Offices of the three states. Julie expects to involve OPAC in this project in the near term to improve contact with coastal communities and stakeholders, and longer term to work at the state level to improve oversight for federal support in the region. The council discussed the opportunities afforded by the project and voiced general support for the approach.

Julie also handed out note cards during the presentation and asked the council members to list the top three issues to be addressed in the ocean, and, in addition, list the most important information needed to resolve or move ahead in each issue area. The results of this analysis will be forthcoming.

Afternoon Session

Update on Marine Reserves Planning (Frank Warrens):

Frank reported on the MRWG meeting conducted during the afternoon of the prior day. (Details of the meeting will be posted on the OPAC Working Group web page.) He began by briefly summarizing the afternoon's discussion of budget, starting with a figure of \$6M for the coming biennium, including \$2M for seafloor mapping, and the remaining \$4M covering about 17 Full Time Equivalent (FTE) positions in state agencies, with associated contract and direct costs. Jim Good then presented a preliminary outline of the two and one half-year work plan for the eight tasks envisioned in Phase I of marine reserves implementation, which is intended to develop the designation process. The work plan is predicated generally on the original 2002 OPAC marine reserves recommendation.

Frank then reported the efforts in the working group to better define, through the personal views of its participants: 1) what issues marine reserves *should not* be designed to address; and 2) what issues (problems and opportunities) marine reserves *should* be

designed to address. The member responses are chronicled in the working group summary. For example, there was a high degree of accord that the reserves are *not* intended to address fisheries management issues. The initial focus of the working group will be to further develop a collective sense of the objectives to be served by Oregon's marine reserves network.

There was a brief discussion pertaining to the possibility that some specific area, perhaps nominated by local interests, could be "hot-tracked" as an experimental marine reserve designation. There was a general sense of agreement that the marine reserves process now envisioned would be able to accommodate such an opportunity, but also recognition that it would require extensive local buy-in, and would still require substantial process designation criteria. Further, no such area has yet been identified on the Oregon coast.

The discussion then shifted to the budget, and Frank reported that Jessica would be asking the Marine Cabinet to respond to the marine reserves draft budget with their take on what would be required in terms of agency Full Time Equivalent (FTE) positions. That exercise is intended to take place shortly after this OPAC meeting. Finally, Frank reported that the working group had agreed to use the original membership as a core group, to which stakeholders and experts would be added to comprise the Reserves Planning Committee originally envisioned by the 2002 OPAC recommendation. The OPAC membership agreed by consensus to approve the preliminary draft work plan and also to approve Frank's approach to enlarging the working group.

Obtaining the Needed Funding for OPAC Priorities (Scott McMullen):

Scott began the dialog on funding priorities by recognizing, with Jessica Hamilton, that the Legislature had declared it was likely to trim the existing budget request from the Governor, including that for natural resource management agencies. Jessica also explained that there was \$5.2M in the Governor's budget to support wave energy. There was recognition that funding sources boil down to three general categories: state (i.e., the Legislature); federal; or "other" (foundations or industry), and these sources have differing process requirements.

Robin Hartmann briefly described the Wave Energy Working Group funding needs as requiring about one FTE, and suggested that this FTE could be added to the other (i.e., marine reserves) budgetary needs of the council. Subsequent discussion included a wide range of topics including seafloor mapping priorities and funding sources, appropriate government levels for ocean planning, and allocation of the Wave Energy Trust funds. No action was taken by the council in this discussion.

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

The remainder of OPAC meetings during calendar year 2007 will be conducted as follows: Thursday, April 19, in Reedsport; Tuesday, July 17, location TBA; Tuesday, September 25, location TBA (tentatively Astoria); and Friday, December 14, location TBA.

New Issues Raised by OPAC Members:

Chair McMullen raised the issue of limiting conversation with council members during public comment, in order to allow sufficient time to hear from the public. Council members were again asked to limit their participation in public comment to requests for clarification.

Public Comment:

Peg Reagan (Conservation Leaders Network): Peg expressed her appreciation for the limited progress made on marine reserves planning, but cautioned the council on the issues of funding, Territorial Sea ownership, the South County seat, and more robust public input to the process.

Gary Wickham (Port Orford): Gary strongly supports the implementation of marine reserves, but he thinks that wave energy may not be as simple as originally envisioned.

Monica Schrieber (North Bend): Monica believes that OPAC's funding problems could be solved by reaching out to industry and other, more creative, funding sources. Monica also expressed the need to study Coos Bay and the estuary now as a baseline to evaluate impacts from the proposed Jordan Cove LNG facility.

Lucie LaBonté (Curry County Commissioner): Lucie requested some better definition of the limits on marine reserves so that the counties can estimate economic impacts; she also suggested that ocean planning for wave energy development be conducted through funding to the OCZMA.

John Griffith (Coos County Commissioner): On fast tracking marine reserves, John stated that the authority to create marine reserves lies only with the Fish & Wildlife Commission, and also reminded that council that it advises, but it does not implement.

Linda Tarr (Kalmiopsis Audubon): Linda commended OPAC for its efforts on wave energy planning, but reminded that council that the effects of prior energy source development have been underestimated.

Nella Abbott (Port Orford): Nella suggested that OPAC study prior world experiences on the effects of wave energy, including those in Portugal, before committing to wave energy development in Oregon.

Syliva Thomas (Kalmiopsis Audubon): Syliva (by letter) asked that wave energy be developed carefully.

John Roorbach (Port Orford): John asked the council what it had accomplished on marine reserves, in terms of timelines for a comprehensive plan and its implementation.

Maryann Barnhart (Port Orford): Maryann commended the council for moving ahead with marine reserves.

Shirley Nelson (Gold Beach): Shirley compared present day fisheries to the whaling industry of the past century, and urged the council to allow the ocean's fish to sustain themselves.

Meeting adjourned by Chair Scott McMullen at 4:50 p.m.